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SENATE

{ REPORT
104-164 }**COMMERCE DEPARTMENT TERMINATION
AND GOVERNMENT REORGANIZATION ACT
OF 1995**

R E P O R T

OF THE

**COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

together with

ADDITIONAL AND MINORITY VIEWS

TO ACCOMPANY

S. 929

TO ABOLISH THE DEPARTMENT OF COMMERCE



OCTOBER 20 (legislative day, OCTOBER 18), 1995.—Ordered to be printed

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GOVERNMENT REORGANIZATION ACT OF 1995**

OCTOBER 20 (legislative day, OCTOBER 18), 1995.—and ordered to be printed

Mr. STEVENS, from the Committee on Governmental Affairs,
submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 929]

The Committee on Governmental Affairs, to which was referred the bill (S. 929) to abolish the Department of Commerce, reports favorably thereon and recommends that the bill do pass.

CONTENTS

	<i>Page</i>
I. Purpose	2
II. Summary	2
III. Need for Legislation	2
A. The Need for Governmentwide Restructuring	2
B. The Need to Replace the Department of Commerce	5
C. The Case for Establishing the United States Trade Administration	9
D. The Need to Create a <i>Government 2000</i> Commission	12
E. Future Organizational Options: The Need for Transition Structures	13
IV. Legislative History of S. 929	18
Committee Hearings on Commerce Department, July 25-27, 1995 ..	18
Committee Hearings on Government Restructuring, May-June, 1995	22
Previous Commission Legislation, 1981-1993	29
Committee Mark Up, September 7, 1995	32
V. Section-By-Section Analysis	33
VI. Regulatory Impact Statement	49
VII. Cost Analysis	49
VIII. Additional Views of Senator Cohen	56

IX. Minority Views of Senators Glenn, Nunn, Levin, Pryor, Lieberman, Akaka, and Dorgan	57
X. Changes to Existing Laws	65
XI. Appendix A: Previous Reorganization Proposals	95

I. PURPOSE

The purpose of S. 929, the Commerce Department Termination and Government Reorganization Act of 1995, is to reduce government costs and improve performance by abolishing obsolete structures, establishing streamlined organizations, eliminating wasteful duplication and fragmentation of resources, and reorganizing around core missions of national importance.

II. SUMMARY

On September 7, 1995, the Committee on Governmental Affairs voted to report S. 929, the Commerce Department Termination and Government Reorganization Act of 1995, as proposed by Senator Abraham and amended by a substitute offered by Chairman Roth. The Act as amended eliminates the Department of Commerce and many of its programs which have been determined to be obsolete, wasteful, or duplicative of similar programs administered by other Federal agencies. In addition, the Act reorganizes trade functions into a single United States Trade Administration (USTA), combines the standards-setting functions of the National Institute of Standards and Technology (NIST) with the Patents and Trademarks Office (PTO) into an independent Office of Patents, Trademarks and Standards (OPTS), and spins off the National Oceanic and Atmospheric Administration (NOAA) as an independent agency.

The Act creates a nine-member bipartisan Government 2000 Commission charged to restructure the Executive Branch and report its recommendations by June 1, 1996. The Act establishes an expedited process for Congressional consideration of the Commission's recommendations. In creating a process which includes expedited committee consideration, the promise of floor debate, and the guarantee of unlimited germane amendments, the Committee believes it has heeded the call for fundamental restructuring of the government while appropriately balancing concerns about political gridlock with fundamental principles of Congressional debate and deliberation.

III. NEED FOR LEGISLATION

A. THE NEED FOR GOVERNMENTWIDE RESTRUCTURING

The Committee believes the Federal Government must be comprehensively restructured for improved efficiency and effectiveness in the 21st Century. While it may have been adequate to the tasks of the last century, our government and its antiquated structures and systems are not up to the challenges of today, let alone those of tomorrow. As our nation looks ahead, it does so with a government that is, in too many instances, outmoded, inefficient, rife with duplication and fragmentation of effort, and systematically vulnerable to fraud, waste and abuse.

The General Accounting Office (GAO) has testified to the rampant duplication, overlap and fragmentation that exists throughout

the Executive Branch. As reflected on Exhibit 1, on the following page, an average of 6.5 agencies play a role in each major mission area, as represented by Federal budget classifications. For example, the Department of Agriculture (USDA) is involved in ten different functional areas, the Treasury Department in eight, the Commerce Department in four, Eight agencies play a role in natural resources and the environment; eight in administration of justice; fifteen in providing income support to individuals.

The Committee believes that the government must rationalize its resources and delivery systems to meet growing demands for quality and efficiency in public services. The government must wake up to the lessons of the past decade and take a dose of the same strong medicine taken by thousands of private sector organizations in restructuring to meet global competitive challenges. The government must restructure, change its business practices, and adopt modern information technologies to do more and better work with less.

Government is at a crossroads. The Commerce Department Termination and Government Reorganization Act will help both the legislative and Executive Branch determine the direction in which we must head; how to organize government to maximize performance and decrease costs, and how to meet the country's needs in the 21st Century. This Committee, which oversees the "efficiency and economy of operations of all branches of the government," is convinced that only a fundamental overhaul of structures and systems will provide American citizens with the quality and performance they expect from the Federal Government. The Committee believes that such action is necessary to regain the confidence of the American people in their government.

B. THE NEED TO REPLACE THE DEPARTMENT OF COMMERCE

The Commerce Department is a microcosm of the duplication, waste and obsolescence that pervade the Federal Government as a whole. GAO and other experts have testified that Commerce is a loose collection of poorly managed and unrelated functions. Its missions are shared with at least seventy-one different agencies, according to GAO. Its financial systems are so weak and ineffective that they are on the Office of Management and Budget (OMB) "high risk" list. Many in the business community doubt that it adds sufficient value to justify its continued existence. A June 5, 1995 Business Week poll of senior business executives found that supporters of elimination outnumbered the Department's defenders by a margin of two to one. The Committee believes that the Department should be fundamentally restructured to eliminate wholesale duplication and fragmentation and to bring coherence to the management of its important functions.

In its present form, the Department is almost unmanageable. Former Secretary of Commerce Barbara Hackman Franklin emphasized this to the Committee in testimony on July 27, 1995:

The Department's structure worked against its being managed effectively. One of the things missing in government quite often is managerial capability, and we exacerbate this lack of skill when an entity is not structured and focused properly.

At the same hearing, former Chairman of the Council of Economic Advisors, Murray Weidenbaum, testified that the Department's budget has increased by 39 percent in the last two years. The Committee finds this rapid growth to be out of sync with the times, given the public's demands for reduced government costs and better services.

For all of these reasons, the Committee believes that Commerce is an appropriate place to begin the long overdue restructuring of the Executive Branch. The Committee is mindful of its responsibility to be faithful to the public mandate for improved performance and reduced costs. Moreover, the Congressional Budget Resolution for Fiscal Year 1996 determined that the Commerce Department should be eliminated. It is the Committee's responsibility to act consistently with this instruction. Perhaps most important, the Committee believes that the Congress must act decisively to show the public and the members of the Government 2000 Commission that it takes restructuring seriously.

Bipartisan majorities of the Committee have approved bills to restructure Commerce in earlier sessions. In 1983, the Trade Reorganization Act (S. 121) was reported out of the Committee on a 13-3 vote. This bill explicitly terminated the Department of Commerce (Section 609) while creating a new Department of Trade.

The process of restructuring necessarily involves eliminating wasteful and ineffective functions and structures while reorganizing remaining ones for improved performance. The Act explicitly eliminates the Economic Development Administration (EDA), while preserving certain grant authorities by consolidating them with similar functions at other agencies: EDA's defense conversion authorities are transferred to the Department of Defense (DoD), and its infrastructure authorities to USDA. These transfers will allow the most worthwhile projects to continue to the extent that they are able to compete favorably for funds with similar projects in their new host agencies.

EDA is poorly managed, \$400 million dollar Great Society program with a history of fraud, waste and abuse problems, and a vestige of the failed approaches of yesterday. At one point in its history, some 40 percent of its loans were in default, while grants intended for depressed areas were awarded to such areas as Key Biscayne, Florida. At its best, EDA duplicates the efforts of several other agencies, such as the Department of Housing and Urban Development and USDA's Rural Development Administration. At its worst, EDA is a symbol of pork barrel politics and bureaucracy run amok.

Eliminating EDA has a history of bipartisan support. As recently as 1993, Senators Roth, Dole, Boren, Moynihan and Lieberman co-sponsored a bill (S. 580) to create a trade department, which also eliminated EDA (though not disputing his co-sponsorship, Senator Lieberman's staff asked that this report reflect his later support for an amendment offered by Senator Pryor to preserve EDA). Matthew Miller, a former Clinton Administration budget official, sized up EDA this way in the September 11, 1995 New Republic:

The plan to abolish the Economic Development Administration is laudable. On the Congressional Budget Office's hit list for many years, EDA's yearly \$407 million goes mostly for public works grants to state and local governments, often to help develop distressed areas. EDA's reputation for ineffectiveness is so extreme that one governor begged last year that disaster and flood relief money be administered through any agency *but* EDA. That shouldn't be any surprise, since half of EDA's staff sits comfortably

at headquarters rather than in the field; the top heavy bureaucracy sports one supervisor for every supervised employee in the field. Commerce Secretary Ron Brown says EDA should live because it's the only agency specifically targeting communities that are suffering military base closings; but, with just over a quarter of EDA's money earmarked for such purposes, that's pretty weak justification for the whole agency's survival. Privately, Democrats know EDA's best defense: it's one of the few pots of "political" money available to dole out for economic development (i.e., vote-buying) in a pinch.

NIST's Advanced Technology Program (ATP) subsidizes high tech industrial research and development (R&D). Funding focuses on nascent "pre-competitive" technologies, prior to commercialization. ATP has been justified on grounds that the short term focus of most investors makes them unwilling to fund pre-competitive R&D. This premise has been roundly disputed. There is no evidence of market failure which might provide a rationale for the government's intervention. In the hearing of July 27th, Dr. Edward L. Hudgins of the Cato Institute testified:

The market works well without government handouts. The private sector is the principal engine of this country's multi-trillion dollar economy, not government handouts. In the area of advanced commercial technologies, that is the high-tech revolution of the last 15 years, the private sector already does a world-class job in developing new products and technologies. Thus, ATP is unnecessary.

Since there are more projects proposed than available funds, ATP substitutes the judgement of government decisionmakers for the market place in sorting out next generation technologies. The Committee is not persuaded that the use of peer review is a substitute for market forces. This is a process that inevitably becomes dominated by the best proposal writers, not necessarily the best technologies, and it is a function that the Committee believes belongs in the marketplace. There are more effective and less intrusive ways of achieving the desired ends. For example, consistent with the principles of the National Performance Review and "reinventing government," the government could "steer more, and row less" by using incentives such as tax credits and regulatory relief, rather than attempting to directly manipulate the marketplace through bureaucratic decisionmaking. In testimony to the Committee on July 27th, former Council of Economic Advisors Chairman Murray Weidenbaum put it this way:

It is the new activities of NIST that are truly objectionable and should be terminated. These rapidly escalating outlays—in the guise of promoting technology—constitute the intrusion of "industrial policy" into the Federal Government's existing arsenal of business promotion. We can recall that the basic problem with the industrial policy approach, and surely with NIST, is that the government selects the winners and the losers. The Feds choose which specific industries and individual companies are to receive

the contracts being awarded. There are alternative and far better ways in which technology can be encouraged—but none of them involves the Department of Commerce.

For example, tax credits for research and development leave the choice of technology projects with the individual business firm. The company bears the great bulk of the financial risk of a new technological development. It is sad to note that, in the last few years, Congress has been quicker to spend the money than to extend the tax incentive. There is an even less expensive way of promoting technology—reduce innumerable government regulatory barriers that raise the cost and risk of new technology undertakings. That is the role of regulatory reform, a task that Congress is now considering.

Furthermore, GAO testified that ATP duplicates similar programs in other government agencies. These include: DoD's Advanced Research Projects Agency, particularly its Dual Use Technology and High Performance Computing programs; the Department of Energy's Cooperative Research and Development initiatives; the Small Business Administration (SBA) Small Business Technology Transfer program; and others. All together, ATP accounts for only ten percent of Federal spending in these areas.

The Manufacturing Extension Partnerships (MEP) program provides matching grants to state and local centers which provide consulting and training services to small businesses. Like ATP, there is no consistent evidence that the centers are working. Some seem to do well, while others have failed. The centers duplicate services widely available in the private and non-profit sectors from consulting firms, trade associations and institutions of higher learning. Moreover, GAO testified that MEP duplicates nearly identical services provided by SBA through its Small Business Development Centers and Small Business Institutes. The Committee believes that the justification for government involvement in this sector is dubious at best. If it exists, at all, it belongs at the state and local levels.

In addition, the following agencies and programs are terminated under this Act: U.S. Travel and Tourism Administration (USTTA); National Telecommunications and Information Administration (NTIA); Minority Business Development Agency (MBDA); National Technical Information Service (NTIS); the Office of the Chief Economist; and the Technology Administration. The Director-General of the Commercial Service (an officer of the new USTA) is authorized to assume any essential tourism promotion activities not otherwise terminated by the Act. NTIA's trade policy functions are transferred to the USTA; its domestic policy functions to the Executive Office of the President; standards-setting functions and labs to the Office of Patents, Trademarks and Standards (OPTS, discussed below); and spectrum management for Federal agencies to the General Services Administration (GSA). MBDA's funding authorities are transferred to the SBA. This will allow its most effective programs to be continued to the extent that they compete favorably with similar programs of SBA.

C. THE CASE FOR ESTABLISHING THE UNITED STATES TRADE
ADMINISTRATION

The elimination of the Commerce Department presents the Congress with a timely opportunity to begin the long overdue process of restructuring Executive Branch trade functions to meet the needs of the 21st Century. Like so many other functions of government, trade has reflected reactive growth and haphazard bureaucratic sprawl over several decades. Restructuring trade functions for improved focus, coherence and performance has been a priority of the Committee for many years.

Trade is a powerful engine of economic growth and job creation. Its importance to American prosperity and economic strength has never been greater. Approximately one quarter of our gross domestic product is now tied to trade with other nations. Exports alone support over ten million jobs and have been responsible for one-third of overall national economic growth in the past seven years. The United States is, by far, the world's largest trader, and our trade has grown enormously. In 1994, the United States exported \$717 billion in goods and services, compared to about \$280 billion just ten years ago. This growth is expected to continue as the information age unfolds, as production becomes increasingly globalized, and as barriers to trade are removed worldwide.

Unfortunately, the Committee finds that government structures for managing America's trade affairs have failed to keep up with changing times. Previous legislative initiatives to restructure trade have not been enacted by the Congress, and administrative reforms within the Executive Branch have been limited in scope and inadequate to emerging needs. The last meaningful reform occurred in 1979 under President Carter's Reorganization Plan Number Three. Since then, sweeping changes have taken place in the international trade environment. Trade is now on center stage of the national agenda. Since President Clinton took office in 1993, the United States has concluded over 150 trade agreements, including the historic North American Free Trade Agreement (NAFTA) and the Uruguay Round of multilateral trade negotiations.

In addition to negotiating agreements and establishing fair trade rules, our government performs numerous other vital trade functions. These include: trade policy development; implementation and enforcement of trade agreements; administration of trade laws; and promotion and financing of American exports. The Committee believes that the division, duplication, and fragmentation of these functions throughout the Executive Branch seriously hampers our ability to perform them effectively. Allowing these divisions to continue is not in our national interest. American interests will be better served by uniting trade functions under one roof and the leadership of a single cabinet official.

The Committee believes there are three fundamental reasons why the time has come to create a cabinet level United States Trade Administration (USTA). First, it will establish a trade structure which fully recognizes the vital importance of trade to our economic health and national interest. Second, it will remove longstanding organizational barriers which impede our ability to set forth a clear and forward-looking trade policy for our nation. Fi-

nally, it will help America meet the enormous and complex trade challenges of the future through more effective and efficient government. Our government's trade structure should be based on the trade realities of today and tomorrow, not yesterday.

The USTA created by this Act consolidates and streamlines principal Executive Branch trade functions within a single structure capable of focusing like a laser on international trade matters. The Act will significantly reduce the number of agencies involved in export promotion by consolidating responsibilities and programs, which currently exist in 19 different agencies. It will eliminate the rather arbitrary bifurcation in trade responsibilities that exists between the USTR and the Secretary of Commerce. The Committee recognizes that, in many respects, there is no clear dividing line between the roles of these two officials. This conclusion is supported by numerous trade policy and management experts. In March 1993, the Inspector General of the Commerce Department reported that two major components of the International Trade Administration—the International Economic Policy and Trade Development offices—spend about half their time on trade policy development and negotiations—functions which nominally belong to the USTR.

The Act establishes the USTA as an independent agency of the Executive Branch. The USTA will be headed by the USTR, who retains cabinet rank. The USTA will include all of the existing functions of the USTR, plus the trade functions of the Commerce Department and the Trade and Development Agency (TDA), and the financing functions of the Export-Import Bank (Ex-Im Bank) and the Overseas Private Investment Corporation (OPIC). By reducing the duplication and fragmentation that currently impede efficient performance of these functions, the USTA will more powerfully promote American trade interests at reduced cost.

This structure is consistent with the recommendations of three former Secretaries of Commerce and at least one former USTR. At a July 27th hearing, former USTR and Secretary of Agriculture, Clayton Yeutter, testified about the functions that should comprise what he referred to as a "trade ministry:"

In establishing a trade ministry, I'd start with the Office of the USTR. USTR, a superlative performer, will probably always be at the heart of U.S. trade activity, no matter where it is placed in the hierarchy of government. It fits comfortably where it now resides * * * but that is the source of innumerable turf battles with the present Department of Commerce, and USTR's support network is "voluntary," not at its behest and command.

I'd also put in the Export-Import Bank in a new trade ministry. The Overseas Private Investment Corporation logically could be included as well * * *.

The financing functions should be included, Ambassador Yeutter argued, to give the USTR "front line" trade weapons comparable to those wielded by other trade ministries. He went on to discuss support functions needed to complete the trade ministry: the Foreign Commercial Service; the Import Administration; and the Trade Development functions of the International Trade Administration. Ambassador Yeutter also stated that "we'll never have a trade min-

istry with the clout this testimony visualizes until and unless we consolidate the principal trade functions of the U.S. Government in one cabinet department.”

Former Secretary of Commerce, Barbara Hackman Franklin, suggested a similar structure and recommended that it be established as a cabinet-level, independent agency, outside of the Executive Office of the President (EOP):

My recommendation is that the U.S. Trade Representative's office be joined organizationally with other trade functions. The USTR already has cabinet-level status. Leadership of an enhanced trade function could make it an even stronger and more effective voice in the Executive Branch process when advocating for opportunities in new markets.

Both witness testified that removing the USTR from the EOP would not harm its responsibilities as an “honest broker” and inter-agency coordinator on trade policy decisions. The Committee concurs with this viewpoint. There is no reason why the USTR cannot continue to perform its interagency coordinating as effectively as it currently does, particularly at the subcabinet level.

The Committee believes that the merits of creating the USTA far outweigh the few, relatively minor concerns that have been brought to the Commerce's attention. For example, concerns about perceived conflicts and adverse “trade-offs” between trade negotiations and trade remedy law administration are unfounded, because the administration of these laws is a quasi-judicial process. The Committee expects these functions to remain separate from those relating to negotiation and to be administered in strict accordance with current law.

The Committee does not accept the view that the trade promotion and trade negotiation functions should be separated. In fact, they are interrelated in many ways. For example, trade negotiations open markets, while trade promotion takes advantage of new market opportunities that result from negotiated agreements. Moreover, those who are on the front line of export promotion are often in the best position to identify issues that should be addressed in future negotiations, or that arise from ineffective implementation of trade agreements.

International trade has never been a more crucial or complex challenge for our nation. The 21st Century will demand that American interests be pursued with greater unity of purpose and sophistication than ever before. The negotiating agenda has grown enormously, in terms of both the sheer number and the unprecedented complexity of issues on the table. Monitoring our trading partners' performance on trade agreements to make certain that they stick to their obligations—in the context of increasingly complex bilateral and multilateral agreements, such as NAFTA, the Uruguay Round, the United States-Japan Auto Agreement, and the United States-China Intellectual Property Rights Agreement—will demand greater American resolve and ingenuity than ever before. The pursuit of long term strategic goals, such as Chile's NAFTA accession, and the achievement of free trade throughout the Western Hemisphere by 2005, and throughout the Asia-Pacific by 2020, will

compound these challenges. These factors underscore the critical importance of unifying Federal trade functions within the USTA.

The case for trade reorganization has never been more compelling. The world has changed fundamentally in recent years, and America's competitive posture in world markets will be a critical determinant of national strength in the years ahead. Creating a modernized streamlined USTA is a crucial element of a national strategy to meet these challenges.

D. THE NEED TO CREATE A GOVERNMENT 2000 COMMISSION

The Committee believes that the government must be fundamentally restructured—well beyond the elimination of one department. The amount of change the Committee envisions will require the development of a comprehensive blueprint and a systematic process for managing the fundamental change involved in moving to a new structure. The Committee believes that the best vehicle for accomplishing change of this magnitude is a bipartisan commission whose recommendations must be considered by Congress in an expedient fashion.

Efforts to eliminate various departments, agencies, and programs one at a time may address the feeling of the American people that government has grown too large and is too costly. However, the public also believes that the Federal Government still has important responsibilities, which it needs to perform much better. The public's concern is not just that government should stop doing certain things, but that those things it needs to do, it must do better and at less cost. Given GAO's finding that over six agencies perform each major Federal mission, merely eliminating one or two agencies will not produce the improvements in efficiency and effectiveness that the public demands.

This means that in addition to eliminating some agencies and programs, Congress also needs to consolidate and streamline others, and to improve their work processes. To do this properly, the Committee has concluded that a comprehensive blueprint should be developed, reflecting a government better organized to address the core missions of a nation about to enter the 21st Century. Just taking a list of 14 cabinet departments, for example, and striking several from that list may not achieve the needed result. The entire organizational premises of Executive Branch structure should be re-thought, perhaps with a few new departments being considered as the replacement for several existing ones.

Doing this effectively may even entail re-thinking the actual role of a cabinet department, as distinguished from an independent agency. It may mean considering new uses for government corporations and rethinking the rules that apply to them. In addition, operational reforms will be needed to retool the internal workings of restructured agencies. In this latter regard, the Committee expects soon to consider reforms to the Federal personnel and purchasing systems. It expects that certain other operational matters may need to be part of any comprehensive reorganization plan, in order to render it effective in achieving better performance at less cost.

The Committee envisions enormous change in the Federal management environment. Given the degree of change envisioned, the

Committee expects that many interest groups (including within Congress itself) will reflexively react against proposed changes to the status quo. Strong public support will be needed to push through reforms. This level of support is more likely to flow from the recommendations of a bipartisan commission composed of experts who possess national stature. Also, a special process will be needed to ensure that the recommendations are considered by Congress in timely fashion. Only bipartisan commission is likely to be granted such a mechanism for consideration of its recommendations.

The Committee has, for the past several years, worked on various formulations of a restructuring commission proposal. Its latest effort embodied in Title V of this Act, as amended, creates a Government 2000 Commission. These efforts by the Committee are part of a long heritage of similar endeavors and have been informed by a close reading of the experience of eleven major initiatives in the 20th Century. These include: Keep Commission (1905–1909); President's Commission on Economy and Efficiency (1910–1913); Joint Committee on Reorganization (1921–1924); President's Committee on Administrative Management (1936–1937); First Hoover Commission (1947–1949); Second Hoover Commission (1953–1955); Ash Council (1969–1971); Carter Reorganization Effort (1977–1979); Grace Commission (1982–1984); and National Performance Review (1993). These initiatives are chronicled in Senate Report 103–88.

E. FUTURE ORGANIZATIONAL OPTIONS: THE NEED FOR TRANSITIONAL STRUCTURES

The termination of the Department of Commerce raises far-reaching questions about the structure and location of functions remaining after the Department, itself, is dissolved. Mindful of the broad charter granted to the Government 2000 Commission, the Committee does not wish to unnecessarily constrain the Commission, or take actions which might be contrary to the future structure it envisions. The Committee found it necessary, therefore, to propose temporary solutions for some functions which might serve as "holding patterns" pending the Commission's consideration of broader solutions. These transitional steps seem preferable and less disruptive in the long run than do some of the other alternatives considered. Two of these transitional structures are NOAA and OPTS.

Two restructuring actions which do not fall into this transitional category involve the trade and statistical functions. The Committee cannot envision a future in which trade would not be of sufficiently critical importance to merit a dedicated, focused structure such as the USTA created in this Act. Similarly, the Committee was sufficiently persuaded by the testimonies of former Commissioner of Labor Statistics, Janet Norwood, and Scott Hodge of the Heritage Foundation, that there are sound programmatic and management reasons for consolidating statistical functions into a single agency. The Committee takes a confident first step in that direction by transferring the Bureau of Economic Analysis and the Census Bureau to the Department of Labor for consolidation with the Bureau of Labor Statistics.

National Oceanic and Atmospheric Administration

The establishment of the NOAA as an independent agency reflects the Committee's interest in keeping NOAA intact pending broader restructuring of the government's natural resources functions by the Commission. The Committee notes that almost all recent reorganization plans, including the Ash Council proposal of 1971, the plan proposed by then-Congressman Leon Panetta in 1991, and the Heritage Foundation proposal of 1995, envision some form of consolidated natural resources agency, which might logically house NOAA or some of its functions in the future.

The Committee considered S. 929 as introduced and other proposals which would have dismembered NOAA by transferring its functions to various other agencies, but rejected them as shortsighted and potentially too disruptive to services. The Committee recalls that in 1969, President Nixon created the Stratton Commission to examine American oceanic programs. The Commission reported that America's use of the seas was hampered by having marine activities scattered in several different government agencies, and recommended that NOAA be created as an independent agency. In testimony before the Committee on July 27, 1995, Dr. John Knauss, former NOAA Administrator and former member of the Stratton Commission, emphasized the importance of keeping NOAA intact so as not to lose the synergies between the oceanic and atmospheric missions which led to NOAA's creation in the first place:

I strongly believe this nation is well served by combining its ocean and atmospheric services in a single agency. The importance of the ocean-atmosphere interactions was a key reason for the mix of functions the Stratton Commission put into NOAA. It would be tragic to break up ocean and atmosphere function of NOAA.

Nevertheless, persuasive expert testimony on the privatization potential of non-core NOAA weather service functions was presented on July 27th by Jeffrey C. Smith of the Commercial Weather Services Association. In light of these testimonies, the Committee believes that NOAA should be kept whole and independent pending consideration of the restructuring of the entirety of Federal natural resources functions by the Government 2000 Commission, and completion of studies by OMB of NOAA's privatization potential. Further, the Committee adopted the Glenn Amendment to downsize and streamline NOAA in accordance with recent recommendations by the President's National Performance Review.

Office of Patents, Trademarks and Standards

The Constitution provides an exclusive right to inventors and creators of intellectual property to enjoy the fruits of their creativity. This right is granted so as to offer to the public inventions and ideas which have been demonstrated to be novel and not infringe on the prior art of others.

One of the earliest enactments of Congress, the Patent Act of April 10, 1790, created a cabinet-level board and authorized the Secretary of State, the Secretary of War, the Attorney General, or any two of them to issue patents. Thomas Jefferson, then Secretary

of State, took a particular interest in the development of science and industry and encouraged the development of patent art.

The current Patent Office and modern patent law was established by the Patent Act of 1836. The Patent Office was first a bureau of the Department of State from 1836 until 1849, when it was transferred to the Department of the Interior. When the Department of Commerce and Labor was created in 1903, proposals were made to transfer the office to the new department. A comprehensive study of the patent system and office was made by a Presidential commission in 1912. The Taft Commission recommended that it be made into an independent office at that time:

In 1849 came the creation of the Department of the Interior and under it was placed the Patent Office. As early as 1852, complaints were made by the Commissioner that the Patent Office has no more logical connection with the department than it has with any other; that it suffers with all the inconveniences and embarrassments of such relation, but gains none of the advantages. This idea has continued until the present time. It is often recommended that the Patent Office be made an absolutely independent bureau, whose head shall be appointed for life.

The recommendation was adopted at the time and the Patent and Trademark Office remained in Interior until 1926, when it was transferred to the Department of Commerce by executive order, where it is located today.

In 1959 a Senate Judiciary Patent Subcommittee report concluded that;

* * * the present subordination of the Patent Office to the Commerce Department is inconsistent with proper performance of the quasi-judicial functions involved in granting patents. When such a quasi-judicial agency is made subordinate to an executive department it is inevitably handicapped. The Patent Office will also be handicapped in discharging its administrative responsibilities so long as Congress must rely on the Secretary of Commerce, rather than the Commissioner of Patents, to present proposals needed to remedy deficiencies in physical facilities and personnel.

The Subcommittee staff concluded that the need for an independent office was established as long ago as 1912.

In 1961, Patent Commissioner Ladd set up an independent study group headed by Earl Kintner, former chairman of the Federal Trade Commission. Like many other outside study groups it found that many problems plagued the operation of the office, particularly backlog. It found chronic problems of personnel turnover, management inertia, poor management and poor planning.

In 1979, Senators Bayh of Indiana and Danforth of Missouri co-sponsored S. 2079, a bill to establish an independent Patent and Trademark Office headed by a presidentially appointed Commissioner who would serve a single six year term. Hearings were held by the Senate Judiciary and Governmental Affairs committees. Six former Patent Commissioners testified in favor of the proposed leg-

isolation. However, the bill did not receive further consideration at that time.

In 1982, Congress enacted the Federal Courts Improvement Act which created a single Federal appellate court for all patent appeals, the Court of Appeals for the Federal Circuit, and which formalized appeal procedures within the Patent Office itself by creating two administrative tribunals, the Boards of Patent Appeals and the Board of Trademark Appeals. These actions proved to be quite successful in creating a uniform, consistent body of patent and trademark law, but it did not achieve a major goal of cutting down on the costs or significant delay in administering and enforcing patent law.

In 1984, Congress authorized the Patent Office to establish an automation fund. As a result hundreds of millions of dollars have been obligated in efforts to modernize and automate the patent search and retrieval activities of the Patent Office. Only limited success has been achieved in automation, according to a 1993 GAO report, and much remains to be done to bring the Office's capabilities up to the level of private firms offering similar services to the patent bar and inventing public.

From the outset, PTO was a self-sustaining enterprise by generating sufficient revenues to cover its costs. This continued through 1922, at which time taxpayer funds were needed to support the Office. This pattern was reversed in 1982 and by 1991 it was again 100 percent user fee funded. In recent years, budget and administrative officials from the Department of Commerce and the OMB have increasingly diverted user fee income to other governmental needs.

Under the 1982 Act, patent and trademark fees recovered 83 percent of total operating costs. Congressional appropriations provided the remainder of the funds. In November, 1990, the Omnibus Budget Reconciliation Act (Public Law 101-508) was enacted as a deficit reduction measure. The PTO's share of the budget reduction effort was \$495 million over a five year period. As a result, a 69 percent surcharge was applied by the Congress to certain patent fees.

Through Fiscal Year 1995, the PTO has met all deposit requirements of this law. However, through Fiscal Year 1995, approximately 12 percent, or close to \$60 million of patent fee collections have not been appropriated back to the PTO. At the current House and Senate marks for Fiscal Year 1996, the amount diverted from the PTO will increase to between \$80 million and \$115 million. In all, it is currently estimated that an additional \$345 million will be diverted by the end of fiscal 1998.

The transition to full user-fee funding was accompanied by a substantial 35 percent increase in the number of patent applications that have been filed from 1982 to 1994. In Fiscal Year 1995 almost 192,000 applications were filed and about 140,000 new patents were issued. By the year 2000, projected filings are expected to be at least 234,000. Similar growth is being experienced in trademark applications, with current filings about 157,000 and reaching over 200,000 by the turn of the Century.

Patent application filings in emerging technologies are forecast to increase at higher than average rates. For example, in 1995, PTO

will have received about 15,000 biotechnology applications, more than 5.7 percent more than the previous year. Examining patent and trademark applications is a labor-intensive activity. As workload increases, there needs to be a corresponding increase in technical and administrative staffing. The examiner corps, which has scientific, technical as well as legal backgrounds, currently is more than 1,000. By the year 2000, workload projections may well result in a doubling of the group. Competition for individuals with these technical and legal skills is intense. PTO needs to respond quickly to fluctuations in workload as well as sudden increases in new technology areas. Personnel ceiling and cutbacks applicable to traditional government agencies negatively impact production which in turn has a negative impact on productivity (new patents awarded) and future revenues.

In considering the restricting and dismantling of the Department of Commerce, serious consideration was given to three alternative recommendations for organizational placement for the Patent and Trademark Office. A decision was made to make the current office an independent agency, free from subordination to any cabinet officer. Serious consideration was given to the transfer of the agency to the Department of Justice, as was the case at the beginning of the Republic, and as was recommended by Senator Abraham and the Majority Leader, Senator Dole, in S. 929 as introduced.

The Attorney General traditionally is a powerful senior member of any cabinet and is learned in the law, although no recent Attorney General has had expertise in the highly technical field of patent and trademark law. However, keeping in mind recommendations spanning more than a century and up, until very recently with the Bayh-Danforth bill, transfer to another Department was rejected.

The proposal to "privatize" PTO by establishing a wholly-owned government corporation was also considered. Such a proposal has been made by the patent bar in the 1992 report by the American Intellectual Property Law Association and by a recently released study by the National Academy of Public Administration in August of 1995. These proposals are reflected in H.R. 1659, the Moorhead-Schroeder bill, currently pending in the House Judiciary Committee and on which recent hearings have been held in that body. Also, the Administration will shortly submit its proposal which apparently is similar to the Moorhead bill. This concept is consistent with the criteria contained in the first Hoover Commission Report of 1949 for establishing wholly-owned government corporations: PTO is predominately of a business nature; it is revenue producing and self sustaining; and it is involved in a large number of business-type transactions with the public.

This proposal recognizes the PTO's business responsibility of providing products and services in response to pre-paid requests and applications and its financially self-sustaining nature. The corporate structure would free the PTO from such bureaucratic red tape and structure, thus allowing it to cope effectively and efficiently with rapidly increasing workload while providing high quality, technically sophisticated service. While there is broad support for streamlining of PTO and its work processes, there are important concerns that PTO performs a unique function (i.e. conveying

a government backed property right) this is inherently governmental and should remain within the Federal Government structure.

The bill as amended is intended to support improvements in the efficiency and effectiveness of our patent and trademark system, while providing at least a temporary home for the standards-setting functions which the new OPTS inherits from NIST.

The Committee has followed closely various Congressional proposals to create a Department of Science and other entities dedicated to scientific and technological pursuits. The Government 2000 Commission is directed to sort out these proposals, and in the process it could well find a better home for standards. It is hoped that the Commission will consider the unification of all intellectual property licensing functions (i.e. including copyrights) under a single roof.

In the meantime, the new OPTS will direct the current organization towards a performance based, customer-oriented structure, with much more flexibility to rid itself of traditional governmental and administrative restraints.

IV. LEGISLATIVE HISTORY OF S. 929

The Commerce Department Dismantling Act of 1995 (S. 929) was submitted by Senator Abraham, along with co-sponsoring Senators Dole, Faircloth, Nickles, Gramm and Brown, on June 15, 1995, and referred to the Committee on Governmental Affairs.

COMMITTEE HEARINGS ON COMMERCE DEPARTMENT, JULY 25 AND 27,
1995

The Committee held hearings on the bill on July 25 and 27, 1995. The witnesses appearing on July 25 included:

The Honorable Robert Dole, Majority Leader, U.S. Senate;
The Honorable Ernest F. Hollings, U.S. Senate;
The Honorable Larry Pressler, U.S. Senate;
The Honorable John D. Rockefeller, IV, U.S. Senate;
The Honorable Christopher S. Bond, U.S. Senate;
The Honorable Ronald H. Brown, Secretary of Commerce;
Mr. L. Nye Stevens, Director, Federal Management Issues,
GAO;

Dr. Allan I. Mendelowitz, Managing Director, International Trade, Finance, and Competitiveness Issues, GAO.

Senator Dole testified that the Department of Commerce should be eliminated because of its track record of wasteful duplication and ineffectiveness. He stated that Commerce is the first of four cabinet departments identified for elimination. It is important to eliminate Commerce, he said, because:

It has become the basement of the Federal bureaucracy, a storage room for the forgotten and misbegotten programs. That is not just the verdict of this Senator but it is shared by its own Inspector General, who called Commerce "a loose collection of more than 100 programs," and the General Accounting Office, which said that it shared its mission with at least 71 Federal departments, agencies, and offices.

Senator Hollings strongly objected to the elimination of the Commerce Department, which he testified performs vital functions to the national economy.

Senator Pressler testified to his support for thoughtfully restructuring government, but noted his concerns about keeping "trade, technology and the businessman's voice at the cabinet table." He also expressed concerns about transferring or eliminating several functions, including NOAA and the Technology Administration agencies, which fall under the jurisdiction of the Commerce Committee, which he chairs.

Senator Rockefeller strongly objected to abolishing the Commerce Department on grounds that it performs a critical role in promoting American competitiveness abroad, particularly in high tech industries.

Senator Bond discussed his concerns about international trade. He objected to the way in which S. 929 proposed to dismantle and transfer the Department's trade functions. He expressed his intention to offer an amendment striking the trade sections of the bill and replacing them with language creating a new cabinet level Department of International Trade.

Secretary Brown strongly objected to abolishing the Department of Commerce. He staunchly defended the job he has done as Secretary, discussed his successful efforts promoting American interests abroad, and described the strong support he has gained in the business community. He also discussed his plans to reinvest the Department, including downsizing its workforce by 20 percent, and privatizing PTO and NIST functions.

Mr. Stevens of GAO testified about the duplication, overlap and fragmentation in the missions and functions performed by the Commerce Department with other agencies. He characterized Commerce as: "essentially a holding company for many disparate programs, and it has never been managed on the basis of unifying missions or shared goals." He described the current Administration's articulation of five strategic themes as an attempt to create a more cohesive management system among thirteen independent and autonomous bureaus. He stated that this would be "a particular challenge for Commerce because it does not have exclusive Federal responsibility * * * for any of those strategic themes." He described the Department's administrative systems as highly decentralized and having "serious problems with its financial management and related internal controls." He pointed out several particular examples of duplication of resources and effort between Commerce and other agencies. One example he cited was the Advanced Technology Program (ATP). ATP's funding has increased from \$68 million to \$431 million in the past two years. "ATP is just one of several Federal initiatives that support R&D through grants and cooperative arrangements. * * * The Administration's budget also includes \$4.8 billion for these initiatives, of which just 10 percent goes through NIST." He said that GAO issued a report in January 1994 that showed that "the short term results claimed for the Advanced Technology Program are overstated or lack support."

Mr. Stevens went on to describe similarities between the NOAA and other agencies, particularly the Fish and Wildlife Service (FWS) in the Department of the Interior. Both NOAA and FWS

have responsibilities under the Endangered Species Act and the Marine Mammal Protection Act. NOAA's oceanic research functions also have similarities to several agencies, such as the National Science Foundation, the Office of Naval Research, the Geological Survey and the Minerals Management Service in the Department of the Interior, the Department of Energy, EPA, and NASA.

In the discussion period that followed, Mr. Stevens was asked whether spinning off some of the Commerce functions into independent agencies would create excessive administrative costs. He replied that since the Commerce entities already operate fairly autonomously, they could be made independent at relatively little extra cost.

Dr. Mendelowitz of GAO testified about the roles and responsibilities performed by various agencies in the Executive Branch in the area of international trade. He distinguished four basic functions: trade policy; trade promotion, including advocacy and finance; trade regulation, including export licensing and implementation of antidumping and countervailing duty laws; and collection, analysis and dissemination of trade related data. He testified that any reorganization of trade functions "should hopefully have as an objective looking for opportunities for cost savings." He went on to say that any "trade reorganization proposal that has as an objective cost savings should look more broadly at trade functions across the government than just the Department of Commerce. * * * He concluded by saying that the proposal to dismantle Commerce "provides the Congress the opportunity to deliberate on which trade functions are appropriate for the Federal Government and how these agencies can be best organized to ensure the efficiency and effectiveness of these activities."

In the discussion period that followed, Dr. Mendelowitz mentioned that three agencies have overlapping roles in providing export assistance to small business: SBA; the Commerce Department; and the Ex-Im Bank. He described the GAO's proposal of creating "one-stop shops" to consolidate the activities of all three agencies.

The witnesses appearing in the July 27th hearing included:

Ambassador Clayton Yeutter, former United States Trade Representative, and former Secretary of Agriculture;

The Honorable Barbara Hackman Franklin, former Secretary of Commerce;

Dr. Murray Weidenbaum, Chairman, Center for Study of American Businesses, Washington University, former Chairman of the Council of Economic Advisors;

Mr. Paul R. Huard, Senior Vice President of the National Association of Manufacturers;

Mr. Clyde V. Prestowitz, Jr., President of the Economic Strategy Institute;

Mr. Edward H. Kwiatkowski, Director of the Great Lakes Manufacturing Technology Center, and Vice President of the Cleveland Advanced Manufacturing Program;

Dr. John A. Knauss, Dean, Graduate School of Oceanography, University of Rhode Island, former Administrator, NOAA;

Dr. Edward L. Hudgins, Director of Regulatory Studies, The Cato Institute;

Mr. Murray Comarow, The American University, former Executive Director, President's Advisory Council on Executive Organization (Ash Council);

Mr. Jeffrey C. Smith, Executive Director, Commercial Weathers Services Association; and

Mr. Bryan Norcross, chief Meteorologist, WTVJ-NBC, Miami, Florida.

Ambassador Yeutter testified in support of the streamlining and restructuring of the Executive Branch. He focused on the international trade functions and outlined an organizational concept for a consolidated trade agency.

Mrs. Franklin spoke in favor of streamlining and downsizing the government and the functions of the Commerce Department.

Dr. Weidenbaum applauded the objectives of reducing the size and scope of government and eliminating wasteful and ineffective functions. He focuses particularly on the economics, statistical and technology agencies of the Commerce Department. He also presented data showing recent growth trends in spending in the various programs administered by the Department.

Mr. Prestowitz testified to the importance of the international trade functions of the Department of Commerce. He urged the Committee to proceed from a careful analysis of America's position in the world economy and to avoid superficially "moving boxes around an organization chart."

Mr. Huard testified to the importance of the trade and export related functions of the Department of Commerce to the manufacturing industries. He noted that over 84 percent of America's exports and imports are manufactured products. He expressed concerns about the approach to restructuring taken by S. 929 as introduced by Senator Abraham:

To do away with some of the vital export related functions of the Department is, in our view, not advisable. To scatter those that remain across four or five other different agencies in the government is equally inadvisable.

He stated that the

core elements of the Commerce Department's trade and export functions should remain together under the leadership of a cabinet rank official.

Dr. Hudgins testified to his support for eliminating wasteful and unnecessary functions of the Commerce Department, particularly the subsidy programs to industry.

Dr. Knauss testified about his experience as Administrator of NOAA in the Bush Administration, and as a member of the Stratton Commission, appointed by President Johnson, which first recommended establishing NOAA as an independent agency. He objected to the way in which S. 929 would dismember NOAA and transfer its functions to other agencies. He expressed greater concern about breaking NOAA apart than about its location, whether transferred intact to a new agency, or set up as an independent agency. As he put it:

One of the reasons why NOAA was put together with the oceans and atmosphere was from a science point of

view, these are interactive systems * * * it is critical that we have an ocean and atmospheric organization that is together.

He discussed the possibility of privatizing certain weather related functions. He suggested that some privatization might be possible, but cautioned against outsourcing core Federal functions.

Mr. Comarow testified about his experience as Executive Director of the Ash Council and the Council's recommendations concerning the establishment of a Department of Natural Resources and a Department of Economic Affairs. He discussed the principles of organization considered by the Ash Council in developing its recommendations. He stressed that reorganization is not a panacea. "There is no perfect organization. No structural arrangement can reconcile all interests."

Mr. Smith testified about opportunities to privatize weather related functions of NOAA. He said that there are significant opportunities in non-core Federal functions which offer substantial cost savings.

Mr. Norcross testified to the importance of the weather related services of NOAA. He strongly supported keeping NOAA's oceanic and atmospheric functions intact, and expressed concerns that privatizing weather functions might result in higher costs to some users of Weather Service data, producing a system of "haves and have nots" which might not serve the public interest.

Mr. Kwiatkowski testified in support of the Manufacturing Extension Partnership program. He said that the Cleveland Advanced Manufacturing Program has served some 2,500 companies since its founding in 1989, and discussed its strategies and success stories.

COMMITTEE HEARINGS ON GOVERNMENT RESTRUCTURING, MAY-JUNE,
1995

On May 17 and 18, and June 7, 1995, the Committee held hearings on issues concerning Executive Branch reorganization. Witnesses on the first day were:

Honorable Charles A. Bowsher, Comptroller General of the United States;

Honorable Alice M. Rivlin, Director of OMB;

Scott Fosler, President, National Academy of Public Administration;

Alan Dean, Senior Fellow, National Academy of Public Administration;

Honorable Andrew Foster, Chief Executive, The Audit Commission, United Kingdom;

Robert S. Gilmour, Professor of Political Science, University of Connecticut; and

Paul C. Light, Professor of Public Affairs, Hubert H. Humphrey Institute of Public Affairs, University of Minnesota;

Charles Bowsher described several examples illustrating some of the problems with the current structure of the Executive Branch:

The Federal food safety system, which took shape under as many as 35 laws and is administered by 12 different agencies, does not effectively protect the public from major foodborne illnesses. The system lacks coherence because

the basic structure was created and continues to operate in piecemeal fashion * * *

The Federal Government has 163 separate employment training programs scattered across 15 departments and agencies and 40 interdepartmental offices, which in turn channel funds to state and local program administrators. Given the size and structure of these and other welfare programs, the vulnerability to fraud, waste, and abuse is considerable. Moreover, little is known about the effectiveness of many of these programs; most of the agencies that administer employment training programs cannot say if these programs are actually helping people to find jobs.

The Federal Government funds over 90 early childhood programs in 11 Federal agencies and 20 offices * * * Of the key programs we identified, 13 targeted economically disadvantaged children from birth through age five. * * *

In asserting the need for a more integrated approach to the organization of Federal agencies and programs, he stated that:

The case for reorganizing the Federal Government is an easy one to make. Many departments and agencies were created in a different time and in response to problems very different from today's. Many have accumulated responsibilities beyond their original purposes. As new challenges arose or new needs were identified, new programs and responsibilities were added to departments and agencies with insufficient regard to their effects on the overall delivery of services to the public.

Moving to a smaller, more efficient Federal Government that stresses accountability and managing for results will require reengineering Federal operations and supporting them with modern information technology. Reengineering inefficient work processes and using modern technology offer unprecedented opportunities to improve the delivery of government services and reduce program costs.

He stated that in order to develop a plan for such reforms, he had "always supported the idea of a bipartisan commission on this because I think it does help."

Dr. Rivlin discussed some of the advantages and disadvantages involved in creating a commission on reorganization. She expressed concern that such an effort would cause a loss of momentum within the Executive Branch for the Administration's own efforts to restructure and reform the operations of government. She said that there is a problem with creating too many independent agencies that do not report to the President, but that there also should not be too many that do report directly. She expressed the opinion that 13 to 14 departments is about the right number for this size of government, though we may not have the right ones.

Scott Fosler presented a comprehensive overview of the advice of the National Academy of Public Administration regarding the principles of Executive Branch reorganization. Among the points he raised were that successful restructuring requires a framework, or at least a robust set of principles, to give coherence to a wide range of complex actions, and that the Federal Government needs a strat-

egy for restructuring which includes but is not limited to reorganization. He also explained that several foreign governments, such as the United Kingdom and New Zealand, have created “relatively independent operating agencies.”

Such agencies typically are assigned focused missions and headed by professional executives who negotiate performance agreements with their ministries (equivalent to our cabinet departments) specifying targeted objectives and indicators in exchange for appropriations. The executives are given wide latitude to manage their agencies (including freedom from most central controls on personnel, procurement, and processes), and held accountable for achieving specified performance targets regularly reported in performance reports.

These and other overseas experiences warrant closer attention. But their immediate importance for our consideration here is that the Federal Government should give primary attention to the organizational design of its principal operating units, which in most cases are agencies below the departmental level or completely outside departments, and avoid becoming overly preoccupied with whether or not given departments should continue to exist.

Alan Dean drew on his experiences both as assistant to the vice chairman of the first Hoover Commission and as the coordinator of President Nixon’s effort to replace seven cabinet departments with four. In doing so, he focused specifically on the question of when should a function be a cabinet department, an independent agency, or a government corporation. He concluded that those existing departments which deserve to remain so are the departments of State, Defense, Treasury, Justice, and Transportation, and that each of the others should “be given the additional responsibilities needed for them to pursue successfully some major purpose or they should be combined with other existing departments or agencies.”

Mr. Dean suggested that many of the non-regulatory agencies “exist because no one has gotten around to placing them in an executive department or because supportive groups have successfully kept them separate.” He believes that “Small independent agencies do not really ‘report to the President.’ They tend either to be dominated by interest groups or to be at the mercy of examiners in the Office of Management and Budget.” Referring to Senator Roth’s reorganization commission bill, he said:

Another action which Congress usefully could take is to revive the Chairman’s proposal to create a new, Hoover-type commission to conduct a bi-partisan review of the organization of the Executive Branch and to develop consistent and well thought out recommendations for the next administration and the 105th Congress.

Andrew Foster explained, from his perspective as a chief executive of such an agency, how the government of the United Kingdom has created over 100 “executive agencies” within its departments, covering 66 percent of its total central government workforce. These agencies are each established with a “framework” document,

dealing with items such as: aims and objectives, reporting and accountability, finance, pay and personnel, etc. A chief executive is hired by the department head to run the agency, on a negotiated performance contract, for a fixed term (usually three to five years), with pay closely linked to performance. In return, they are given much greater flexibility over the use of resources, including reallocating funds, and pay and personnel matters. He said that this arrangement has also made it easier for certain functions later to become privatized.

Mr. Foster acknowledged that "The main difficulty has been in the distinction between policy and operational matters," which "has led to tension between some chief executives and their departmental ministers"—particularly as to assessing blame when things go wrong (i.e., was it bad management or bad policy?). He concluded that on balance, "The agency model is potentially very powerful" and that it "has generally had a successful start."

Paul Light summarized the message of his recent book, "Thickening Government," about how there are more layers of management, and more managers in each layer, in the Federal Government than ever before. He argued that there are too many budget and administrative units in government agencies, and that they could be centralized into a small number of quasi-independent "Federal administrative centers. He also endorsed the commission proposal of Senator Roth, likening it to the "Greenspan Commission" on Social Security, rather than to the Hoover Commission.

Robert Gilmour testified that the primary purpose of governmental organization should be accountability, not efficiency, and that efforts to decentralize to achieve the latter often undermine the former. He urged that reorganization be done with clear principles of governmental management and performance in mind, and suggested that the political and legal accountability of government officials are best assured when the following such principles are observed:

Statutes delegate effective authority to the president or to his subordinates who are officers of the United States;

Statutes organizing policy implementation and program administration draw clear lines of authority from the President to the heads of the departments and agencies and from them to their subordinates;

Authority and responsibility for policy and program performance are located with certainty in single administrators, not in plural executives, interagency committees, or representatives boards;

Specific policy and program objectives are incorporated into enabling legislation, subject to reasonable and articulate standards of measurements and compliance;

Statutory responsibility for policy and program performance is congruent with administrative authority and resources;

Executive Branch managers are held legally accountable by reviewing courts for maintaining procedural safeguards in dealing with both citizens and employees and for conforming to legislative deadlines and substantive standards; and

Inherently governmental functions (the making of binding law; authoritative adjudication of disputes; control over elections for government office; the unconsented taking of private property; the exercise of coercive force over others; and the denial of private rights on behalf of the state) are performed exclusively by officers of the United States and their government-employed subordinates.

He endorsed Senator Roth's proposal for a commission to conduct a comprehensive review of these issues and to recommend reforms.

Witnesses at the May 18 hearing who addressed broad reorganizational issues, beyond the elimination or creation of an individual department, were:

Donald F. Kettl, Robert M. La Follette Institute of Public Affairs, University of Wisconsin, and non-resident Senior Fellow, Center for Public Management, the Brookings Institution;

Murray Comarow, American University School of Public Affairs, and former Executive Director, President Nixon's Advisory Council on Executive Organization;

Jeffrey A. Eisenach, Ph.D., President, the Progress & Freedom Foundation; and

Scott A. Hodge, Grover M. Hermann Fellow in Federal Budgetary Affairs, the Heritage Foundation.

Donald Kettl testified that the Committee's "challenge is not just to downsize but to 'smartsize': to reconfigure the Federal Government so that it does its job better, at lower costs and higher performance." Regarding shrinking the size of the cabinet, he stated that, "Fewer departments, and especially more agencies, bureaus, and government corporations, will mean giving government managers more discretion. Such a step has to be accompanied by a careful plan to ensure accountability." He reiterated this need to strengthen accountability as follows:

The one, core element of every major governmental reform, abroad and in the United States, is a revolutionary focus on performance. Instead of judging success by the amount of money spent, the reformers are demanding that government concentrate on the results it produces. In New Zealand, this comes through performance contracts between top bureaucrats and the government and by a dramatic increase in government workers competing with private companies for their own jobs. In Australia, this comes through program-based performance management that leads to performance-based assessment of managers' work. In the United Kingdom's "Next Steps" program, it is leading to the creation of "executive agencies," semi-autonomous bodies charged with clearly defined tasks, driven by market-like, and measured against clear performance standards * * * The most fascinating feature of public sector reform is the remarkable convergence of tactics around performance-based management * * * In the United States, the performance movement is still in its nursery. One of the most important steps was the passage, led by this Committee, of the Government Performance and Results Act (GPRA). GPRA commits the government to an

aggressive, decade-long program to move the Federal Government toward performance-based management.

He endorsed the proposal to establish a commission to develop proposals for organizational reform of the Federal Government as being “an excellent way to trying to make sure that we think carefully about how to do this job well.”

Murray Comarow described the 1970–71 recommendations of what is commonly referred to as the Ash Council, to create a Department of Natural Resources, a Department of Human Resources, a Department of Community Development, and a Department of Economic Growth and Productivity, with the result being that there would be a reduction to a total of eight cabinet departments (those four, plus State, Treasury, Defense, and Justice). He stated that the Council concluded that the reorganization plan should be based on the following principles:

Departments should be organized around broad missions and should seek to integrate the professional skills and governmental functions necessary to accomplish those missions;

The number of departments should be reduced;

Departments should group similar or interdependent programs together to avoid the need for excessive coordination and to permit decision making on all issues relevant to their missions; and

Departments should not be perceived primarily as a spokesman in government for one profession or clientele group.

In responding to the questions of when should a function be a cabinet department, Mr. Comarow suggested that,

Cabinet departments should be those dealing with primary government functions which rightly claim presidential attention * * * It is important to group interdependent programs in a mission broad enough to foster tradeoffs at the departmental level. Single client departments can't do that, with the result that inter-departmental conflicts are resolved in the White House often at levels well below the President and his senior advisors.

Jeffrey Eisenach testified that what is needed today is neither reform of the current system (i.e., “that the current set of programs can be made to work more efficiently and more effectively through relatively marginal changes”), nor abolishment of any particular departments or agencies, but rather replacement, which asks, “Suppose we were trying to achieve X, what would we do?” He suggested several principles to guide such an approach:

Replace current institutions with systems that have clearly defined, quantifiable objectives and hold those systems accountable for achieving those objectives * * *

[E]ach Federal activity should identify clearly the customers it is trying to serve * * *

[R]eplace complex, ambiguous and arbitrary systems of regulation with lean, effective frameworks of laws and institutions * * *

[R]eplace government activities with government incentives and get the government out of the “doing” business
* * *

[F]ocus on moving from large, bureaucratic, inefficient systems to small, decentralized, efficient ones.

Scott Hodge’s testimony was primarily a description of a recently released proposal by the Heritage Foundation to reorganize the Executive Branch. Under the Heritage Foundation proposal, the five cabinet departments would be Defense, Health and Human Services, Justice, State, and Treasury.

Witnesses at the June 7th hearing focused on duplication, overlap and fragmentation in Federal missions, functions and program delivery. The witnesses included:

Susan J. Irving, Associate Issues Area Director, Budget Issues, GAO

Thomas H. Stanton, Johns Hopkins University

Janet L. Norwood, Ph.D., Senior Fellow, The Urban Institute

William E. Davis III, Executive Director, Advisory Commission on Intergovernmental Relations (ACIR)

Ms. Irving reported the findings of studies completed for the Committee which examined duplication, overlap, and fragmentation in Federal missions and functions. The study used Federal budget functions as proxies for national mission areas and identified the number of Federal agencies and subagencies involved in each area. On average, some 6.5 agencies perform roles in each of 17 missions. (These results are summarized in Exhibit 1 of this Committee Report.) She traced the origins of duplication to “active and responsive government” wherein Congress, over many years, has assigned functions to multiple agencies to meet emerging needs or to serve constituencies which Congress believed were underserved. In considering restructuring opportunities, Ms. Irving urged that the Committee recognize that different agencies often use different intervention strategies to address what appear to be the same missions (e.g., direct Federal labor, grants, loans, regulations, etc.). She testified that only about 12 percent of Federal spending pays for the salaries and benefits of Federal employees, while “the dominant mode of Federal operations is to mail checks, either to states or to localities or to individuals.” She discussed some caveats in interpreting the data and suggested future lines of inquiry.

Mr. Stanton testified to duplication and fragmentation in Federal credit programs, which he attributed to Congressional committees servicing different constituencies. He traced the origins of credit programs in the New Deal era when they were designed to correct market imperfections. He explained that recent restructuring and innovations in the financial markets have fixed many of the problems government programs were created to address. There are fewer needs for government intervention today, and greater risks of unintended consequences. He said that credit is a complex policy tool with major shortcomings. For example, he explained that credit is not always a good tool for helping lower income groups, because if the government expects repayment, borrowers who can’t repay may suffer loss of future creditworthiness. He stated that many Federal credit programs duplicate each other and are poorly

administered. He called for “rationalizing” the system and identified debt collection as a function which should be centralized within a single entity, perhaps organized as a government corporation.

Dr. Norwood testified to her 25 years experience in the Bureau of Labor Statistics, including three terms as Commissioner. She said that American statistics programs are probably the most decentralized in the world: “We have 11 individual agencies located in nine different departments which have statistics as their major mission, and there are perhaps 70 other agencies in other government departments which also produce statistical output as a part of their programmatic responsibilities.” She said her experience has convinced her that Federal statistics programs should be consolidated within a single agency along the lines outlined in her recent book, “Organizing to Count,” published by the Urban Institute Press. This agency, “Statistics America,” would include the Census Bureau, the Bureau of Labor Statistics, the Bureau of Economic Analysis, and OMB’s statistical policy branch. She explained that other functions should remain within their host agencies, at least in the near term, on grounds that total centralization would be too traumatic. “Statistics America” would set governmentwide policy and coordinate the entire system.

Mr. Davis testified to duplication and fragmentation in Federal grant programs. He said that the number of Federal categorical grant programs has grown to 618—the largest number in history. He discussed ACIR’s “fragmentation index,” a measure reflecting Congress’s tendency to create more and more small, narrow purpose programs. He explained that small programs carry a disproportionately heavy administrative burden relative to dollars delivered. He discussed the trend of the index to increase over time, indicating government’s tendency to grow increasingly complex and costly to manage. He said that the least efficient grant programs (i.e., those with the highest fragmentation scores) in the government today are in the areas of: cultural affairs; occupational health and safety; disaster prevention and relief; libraries; veterans services; natural resources; justice; and energy. These programs may offer some of the best opportunities for consolidation and/or devolution through block grants.

PREVIOUS COMMISSION LEGISLATION, 1981–1993

Title V of this legislation is the latest version of an effort to create a bi-partisan commission to propose a reorganization plan for the Executive Branch, which traces back to S. 10, introduced on January 5, 1981—by Senators Roth and Eagleton—and passed by the Senate on December 7, 1981. Senators Roth and Eagleton introduced similar legislation, S. 35, on January 26, 1983, which passed the Senate on November 17, 1983. Senators Roth and Eagleton again introduced similar legislation, S. 35, on January 3, 1985.

In 1988, the Department of Veterans Affairs Act (P.L. 100–527) included a provision by Senator Roth that gave the President the option within a limited time of creating a reorganization commission. However, President Bush did not exercise that authority, out of a stated concern that the recommendations would be ignored by Congress.

In the 102nd Congress, Senator Roth introduced another reorganization commission bill, but with a “fast-track” mechanism for congressional consideration of any recommendations (modeled on the device of the military Base-Closing Commission), as S. 2531 on April 7, 1992, and Senator Sanford introduced a reorganization commission bill, S. 2670, on May 17, 1992.

In the 103rd Congress, several bills were introduced to create a commission to consider and propose reforms to the organization and operations of the Executive Branch of the Federal Government, including:

S. 15, the “Reinventing Government Act,” introduced on January 21, 1993, by Senator Roth and co-sponsored by Senator Campbell, to create a nine-member, two-year “Commission on Government Reform;”

S. 101, the “Executive Organization Reform Act,” introduced on January 21, 1993, by Senator Glenn, to create a 12-member, two-year “National Commission on Executive Organization Reform;” and

S. 432, the “Federal Government Streamlining and Efficiency Act,” introduced on February 24, 1993, by Senator Lieberman and co-sponsored by Senator Kerrey, to create a 14-member, six-year “Commission for a Government that Works.”

Each of these three proposals provided for Presidential review and approval of commission recommendations before congressional consideration. The commission’s final recommendations would be submitted to Congress for limited committee consideration and limited floor debate, and under each bill the commission’s legislation could not be amended. While the legislation proposed by S. 15’s commission would have become law unless disapproved by both Houses of Congress, the legislation proposed by S. 101’s and S. 432’s commissions would have had to be approved by both Houses.

At the Governmental Affairs Committee’s January 11, 1993, hearing on the nomination of Leon Panetta to be Director of the OMB, Mr. Panetta was asked about proposals to create a government reorganization and reform commission, including the commission legislation he had introduced while a member of the House of Representatives. Mr. Panetta answered:

I think you have to do it. I think as I have introduced on the House side and you have introduced on the Senate side, I think you do need to have a commission to do it, because, frankly, the problem is it has to be done in a comprehensive fashion. And if you just try to nit-pick away at this, you will never get anywhere.

I do think it is essential that we do that. We have not moved into the 21st Century yet in terms of our structure of government. We are still operating over departments and agencies that have been established over the last 200 years, some of which, frankly, have lost their effectiveness. And so the question is how do you reorganize our overall government for the future?

Many of the same issues were discussed on January 13, 1993, at the confirmation hearing of OMB Deputy Director Alice Rivlin. In response to questions about government reform, Dr. Rivlin stated:

I do think we need restructuring of government very badly, and simplification of how the government is organized, and a commission strikes me as a good idea. I don't know that there is a Clinton administration position on this * * * but if I were a new President coming in, I would welcome such a thing.

The various government reform bills referred to the Committee were, themselves, the subject of a Committee hearing on March 11, 1993. While testimony was heard regarding "sunset" legislation introduced by Senator Reid (S. 186, the "Spending Control and Program Evaluation Act") and S. 20, the "Government Performance and Results Act," the major focus of the hearing was on the government reform commission legislation before the Committee.

Members of the Committee engaged OMB Director Panetta in a colloquy about the need to "complement" the National Performance Review. Senator Roth pointed out that Mr. Panetta had testified in favor of a commission at his January confirmation hearing. Mr. Panetta responded saying that his major concern was in avoiding "duplicative efforts." He concluded:

I guess what I am saying to the Chairman and to you and to this committee is that what we would like to do is to work with you in perhaps fashioning how the work of the Vice President and the (National Performance) review can, in fact, be coordinated with the kind of (commission) approach that you are suggesting, so that maybe they can all come together in September when the recommendations are made.

Comptroller General Charles Bowsher testified that a broad-based, bipartisan commission could perform a valuable service in assessing new management strategies that emphasize "flattening hierarchies, decentralizing authority, creating a customer focus, encouraging competition, and achieving results."

On August 5, 1993, the Committee met to consider a proposed Committee substitute to S. 101 that was developed as a collaboration of Senators Glenn, Roth, and Lieberman, with ideas drawn from all three of their own bills. After accepting three amendments by Senator Roth and two amendments from Senator Glenn, the Committee voted to report the legislation as a new bill by a voice vote. This new bill was introduced as S. 1675 on November 18, 1993, by Chairman Glenn, and co-sponsored by Senators Roth, Lieberman, Cohen, Akaka, Grassley, and Kerrey (S. Rept. 103-188).

S. 1675 provided for a nine-member commission, of which no more than 5 members could be affiliated with any one party, and requiring at least 7 votes for approval any proposed legislative package of reforms. One member would be appointed by each of the four leaders of the Democratic and Republican parties in Congress. Five members would be appointed by the President, four of whom would have had to have been selected in consultation with, one each of four congressional leaders. The Commission's first task would have been to review all of the recommendations of the newly-released report of the Vice President's National Performance Review, and to submit for enactment a package of those recommendations with which it agreed. Thereafter, the Commission

would have had until March 31, 1995, to submit up to three legislative proposals for reform of the organization and operations of the Executive Branch—including proposals to “consolidate or reorganize programs and agencies,” and improvements to personnel systems, budgetary systems, financial systems, information systems, and procurement systems. After public hearings on their preliminary proposals, followed by review and approval by the President, the Commission’s recommended legislation would have been submitted to Congress. Congressional consideration would have involved a modified fast-track procedure which allowed germane amendments. The Commission would have terminated not later than December 31, 1995.

After being placed on the Senate calendar, there was no further action on S. 1675.

COMMITTEE MARK UP, SEPTEMBER 7, 1995

A Committee Mark Up was held on September 7, 1995, in which Chairman Roth presented an amendment in the nature of a substitute to S. 929, entitled “The Commerce Department Termination and Government Reorganization Act of 1995.” This title reflected the broadening of the purposes of the Act to include, in Title V, the “Government 2000 Act,” creation of a commission to restructure the entire Executive Branch.

During the mark-up, the Committee considered and adopted several amendments. The first was an amendment by Senator Glenn in the nature of a substitute to S. 929, which would have stricken all of the text of Senator Roth’s substitute (eliminating the Commerce Department and establishing a Government 2000 Commission). The Glenn substitute was a modified version of the Glenn-Roth-Lieberman commission bill reported by the Committee by a vote of 12–1 in the 103rd Congress (S. 1675). The Chairman stressed that since both Houses of Congress had already voted to eliminate the Commerce Department in the FY 1996 budget resolution, that decision should be carried out in this bill. The Glenn substitute failed 6 to 7. (Yeas: Glenn, Levin, Pryor, Lieberman, Akaka, and Dorgan; Nays: Roth, Cohen, Thompson, Cochran, Grassley, McCain and Smith)

Senator Pryor offered an amendment to transfer EDA to the new USTA created by the Chairman’s substitute, and to maintain all of EDA’s funding authorities. This amendment failed 6–7. (Yeas: Glenn, Levin, Pryor, Lieberman, Akaka, and Dorgan; Nays: Roth, Cohen, Thompson, Cochran, Grassley, McCain and Smith)

Senator Levin offered an amendment to include NIST and PTO within the USTA and restore terminated ATP and MEP programs. This amendment failed 6–7. (Yeas: Glenn, Levin, Pryor, Lieberman, Akaka, and Dorgan; Nays: Roth, Cohen, Thompson, Cochran, Grassley, McCain and Smith)

Senator Glenn offered an amendment to accept downsizing and streamlining recommendations of the National Performance Review applying to NOAA, and to transfer NOAA to the USTA. The Glenn Amendment would call for: reducing the NOAA workforce by over 2,000 positions by the end of Fiscal Year 1999 from its end of Fiscal Year 1993 levels; reducing the number of Commissioned Officers in the NOAA Corps; transferring aeronautical charting to the

Federal Aviation Administration; cutting the volume of NOAA regulations by 45 percent; reducing the NOAA fleet by 50 percent over ten years; requiring submission of legislation to halve the number of Congressionally-mandated reporting requirements; and requiring NOAA to develop a plan to consolidate its laboratories. Senator Roth offered a second degree amendment to Senator Glenn's amendment to strike the transfer to USTA, while accepting the streamlining provisions. The Roth second degree amendment was approved 8-7. (Yeas: Roth, Stevens, Cohen, Thompson, Cochran, Grassley, McCain and Smith; Nays: Glenn, Nunn, Levin, Pryor, Lieberman, Akaka, and Dorgan.) The Glenn amendment was accepted by voice vote as amended by the Roth second degree amendment.

Senator Glenn offered an amendment to modify the procedures under which the Commission makes recommendations and to extend its term by an additional year. This amendment failed 7-7. (Yeas: Glenn, Nunn, Levin, Pryor, Lieberman, Akaka, and Dorgan; Nays: Roth, Cohen, Thompson, Cochran, Grassley, McCain and Smith)

Senator Lieberman, on behalf of Senator Dorgan, offered an amendment to retain NTIA and transfer it to the new USTA. This amendment failed 7-7. (Yeas: Glenn, Nunn, Levin, Pryor, Lieberman, Akaka, and Dorgan; Nays: Roth, Cohen, Thompson, Cochran, Grassley, McCain and Smith)

Senator Glenn offered an amendment to provide for the appointment of a Chairman of the Commission by joint selection of the President, the Speaker of the House, and the Senate Majority Leader. This amendment was adopted by voice vote.

Senator Levin offered a package of six technical and clarifying amendments, including clarifying the scope of the 35 percent funding reduction and allowing 25 days for selection of Commission members (other than the Chairman), two hours of debate on the motion to proceed in the Senate, one hour of debate on appeals from a ruling of the Chair in the Senate, and the expedited procedures in the Senate to be set aside by unanimous consent. These amendments were adopted by voice vote.

Senator Glenn offered an amendment authorizing appropriations for the Commission of \$5 million for each of two years. This amendment was adopted by voice vote as modified by a Roth second degree amendment limiting the authorization to \$5 million for Fiscal Year 1997.

A Unanimous Consent allowing for technical changes as necessary was adopted.

The Committee voted to report the Roth substitute to S. 929, as amended, by a vote of 5-3 (Yeas: Roth, Cohen, Thompson, Cochran, and Smith; Nays: Glenn, Nunn, and Pryor.)

V. SECTION-BY-SECTION ANALYSIS

TITLE I: GENERAL PROVISIONS

Section 101. Findings.—This section is a statement of interest in restructuring the missions and functions of the Department of Commerce and the Executive Branch. It is recognized that existing, bureaucratic government structures are outmoded and wasteful,

and incapable of delivering cost-effective service expected by citizens in the 21st Century. The Department of Commerce is typical of these dysfunctional structures. Responsibility for trade, one of its major mission areas, is so fragmented across the government that a patchwork of coordinating mechanisms involving nineteen different agencies has been created. Consolidation of trade functions into a single United States Trade Administration (USTA) is necessary to bring coherence to the pursuit of our national trade interests.

Section 102. Purposes.—This section discusses the purpose of the act, which include eliminating outmoded structures, and wasteful duplication of effort, streamlining bureaucracy, and enhancing government performance in trade and the other major functions of Commerce.

Section 103. Definitions.—This section defines terms used throughout the bill.

TITLE II: UNITED STATES TRADE ADMINISTRATION

Subtitle A: Establishment

Section 201. Establishment of the Administration.—This section establishes the USTA. The USTA will be headed by the United States Trade Representative (USTR), who retains cabinet status and Ambassador rank. The Administration succeeds the Commerce Department for purposes of protocol.

Section 202. Functions of the USTR.—This section establishes the USTR as the principal adviser to the President on trade issues. The USTR will continue to be responsible for trade policy and negotiations while assuming additional functions, including the promotion and administrative functions of the International Trade Administration and the Bureau of Export Administration. Uniting these functions under a single, powerful trade agency will create a stronger trade voice of our nation, while eliminating counterproductive duplication, fragmentation, turf battles, and inconsistency that currently impede development of coherent policy and consistent administration of trade laws and programs.

Subtitle B: Officers

Section 211 and 212. Deputy Administrators of the U.S. Trade Administration.—These sections establish two Deputy USTR positions reporting directly to the USTR with ambassadorial rank. They will be appointed by the President with Senate confirmation. One will be based in Geneva as the permanent representative to the World Trade Organization; the other will have overall responsibility for USTR negotiating functions. In addition, there will be one Deputy Administrator who will serve as the agency's chief operating officer for non-USTR-related trade functions.

Section 213. Assistant Administrators.—This section establishes three assistant administrators who will manage the functions of Export Administration, Import Administration, and Trade and Policy Analysis, respectively. They will be appointed by the President with Senate confirmation.

Section 214. Director General of the Commercial Service.—This section establishes the position of Director General of the Commer-

cial Service (formerly the U.S. & Foreign Commercial Service) and transfers functions from the former agency to the USTA. The position is to be appointed by the President with Senate confirmation.

Section 215. General Counsel.—This section establishes a General Counsel, to be appointed by the President with Senate confirmation.

Sections 216 and 217. Inspector General and Chief Financial Officer.—These sections establish an Inspector General and a Chief Financial Officer (CFO), to be appointed in accordance with the Inspector General Act of 1978 and the Chief Financial Officers Act (CFO Act), respectively.

Subtitle C: Transfers to the administration

Section 221. Office of the U.S. Trade Representative.—This section transfers all functions currently performed by the USTR within the Executive Office of the President to the new USTA.

Section 222. Transfers from the Department of Commerce.—This section transfers trade-related functions from the Commerce Department to the USTA. This include those performed by the International Trade Administration, the U.S. & Foreign Commercial Service, International Economic Policy, Trade Development, the Export Administration, the Import Administration, and National Telecommunications and Information Administration (NTIA) relating to international telecommunications policy and trade.

Sections 223, 224, and 225. Transfers from the Export-Import Bank, Overseas Private Investment Bank, and the Trade and Development Agency.—These sections transfer the functions of three trade finance agencies to the USTA. Their existing structures remain intact, although they will report to the head of the USTA. Including the trade finance agencies in the USTA will strengthen the hand of our negotiators while improving services to businesses through “one-stop shopping” on Federal export promotion activities.

Section 226. Miscellaneous Export Promotion Related Functions.—Other non-agricultural export promotion functions, including trade missions and assistance programs, performed by agencies with representation on the Trade Promotion Coordinating Committee (TPCC) are transferred to the USTA.

Subtitle D: Terminations and transferred functions and authorities

Section 231. Terminations of Administrative Units of the Department of Commerce.—The following bureaus and programs of the Department of Commerce are terminated: Economic Development Administration (EDA); United States Travel and Tourism Administration (USTTA); NTIA; the Office of the Chief Economist; Minority Business Development Agency (MBDA); National Technical Information Service (NTIS); Advanced Technology Program (ATP); Manufacturing Extension Partnership (MEP) program; and the Technology Administration.

The following transfers are effected: EDA’s financial asset portfolio is transferred to the Treasury Department for management and liquidation; its infrastructure grant authorities are transferred to the Rural Development Administration of the Agriculture Department; and its defense conversion grant authorities to the Department of Defense. NTIA’s trade policy functions are transferred

to the USTA; its domestic policy functions to the Executive Office of the President; standards-setting and functions and labs to the Office of Patents, Trademarks and Standards (OPTS, see Title IV, below); the NTIS assets are transferred to the General Services Administration for disposition. MBDA's funding authorities are transferred to the Small Business Administration. The grant authorities transferred from EDA and MBDA are authorities only; funding is terminated. This will allow their most effective programs to be continued to the extent that they compete favorably with existing similar programs in the receiving agencies.

Section 232. Termination of the Department of Commerce.—The Department of Commerce is terminated.

Subtitle E: Administrative provisions

Section 241. Personnel Provisions.—The USTA is authorized to perform all necessary personnel administrative functions in accordance with its status as an independent agency. A 25 percent reduction in the number of politically appointed positions coming into the USTA from formerly Commerce Department functions is expected. This provision is aimed particularly at the excessive layering of political positions in the International Trade Administration.

Section 242. Delegation and Assignment.—The USTR is authorized to delegate and assign functions to USTA personnel as necessary.

Section 243. Succession.—The USTR is authorized to establish a line of succession within the Administration.

Section 244. Reorganization.—The USTR is authorized to restructure functions of the Administration as appropriate and not inconsistent with this Act.

Section 245. Rules.—The USTR is authorized to issue appropriate rules and regulations to conduct USTA business.

Section 246. Contracts, Grants, and Cooperative Agreements.—The USTR is authorized to enter into business relationships as necessary and appropriate to conduct business.

Section 247. Use of Facilities.—The USTR is authorized to acquire and make use of facilities, services, equipment, etc., of public and private organizations as necessary to conduct business.

Section 248. Gifts and Bequests.—The USTR is authorized to accept and use bequests of property for the conduct of agency business.

Section 249. Working Capital Fund.—The USTR is authorized to establish a working capital fund, without Fiscal Year limitation, for the conduct of common administrative functions as approved by OMB.

Section 250. Seal of Administration.—The USTR shall create a seal of office for the USTA and register it with proper authorities.

Subtitle F: Related agencies

Section 251. Interagency Trade Organization.—This section amends the Trade Expansion Act of 1962 to substitute the USTR for the Secretary of Commerce on the Interagency Trade Organization.

Section 252. National Security Council.—This section amends the National Security Council Act of 1947 to substitute the USTR for the Secretary of Commerce on the National Security Council.

Section 253. International Monetary Fund.—This section amends Section 3 of the Bretton Woods Agreement Act to substitute the USTR for the Secretary of Commerce in trade related matters.

Section 254. General Services Administration.—Transfers NTIA's spectrum management function for Federal agencies to the GSA.

Section 255. Department of Labor.—Transfers functions performed by the Census Bureau and the Bureau of Economic Analysis to the Department of Labor for consolidation with the Bureau of Labor Statistics.

Subtitle G: Conforming amendments

Section 261. Amendments to General Provisions.—This section: substitutes the USTR for the Secretary of Commerce in the line of Presidential succession in U.S. Code; substitutes the USTA Inspector General for that of the Department of Commerce, with respect to the Inspector General Act of 1978; amends the Trade Act of 1974 to clarify that trade functions are transferred with the USTR to the USTA; and amends the CFO Act to make certain requirements apply to the USTA.

Section 262. Repeals.—This section repeals references in other laws to the creation, existence and authorities of the Department of Commerce and terminated offices and officers.

Section 263. Conforming Amendments Relating to Executive Schedule Positions.—This section amends U.S. Code to eliminate presidentially appointed positions at the Department of Commerce and establish a smaller number in the USTA.

TITLE III. ESTABLISHMENT OF NOAA AS INDEPENDENT AGENCY

Subtitle A: Establishment of administration

Section 301. Short Title.—This title may be cited as the “National Oceanic and Atmospheric Administration Act of 1995.”

Section 302. Findings and Purposes.—This section discusses the Committee's interests in establishing a single agency as a focal point for oceanic, coastal, atmospheric, and related environmental matters, and to streamline and improve the efficiency of NOAA's operations.

Section 303. Definitions.—This section defines terms used throughout this Act.

Section 304. Establishment.—This section establishes NOAA as an independent agency and the successor to NOAA as previously established in the Department of Commerce.

Section 305. Officers.—This section establishes the following positions: an Administrator, a Deputy Administrator, and a Chief Scientist, all appointed by the President with Senate confirmation; not less than three and no more than five Assistant Administrators, a General Counsel, and a Director of the National Sea Grant College, all appointed by the Administrator; an Inspector General and a Chief Financial Officer, appointed in accordance with the Inspector General Act of 1978 and the CFO Act, respectively. Also estab-

lished is a Commissioned Officer Corps, with all responsibilities transferred from the Department of Commerce.

Section 306. Transfer of NOAA from the Department of Commerce.—This section transfers all functions performed by NOAA from the Department of Commerce to the new NOAA.

Subtitle B: Streamlining provisions

Section 311. Personnel Reductions.—This section enacts downsizing proposals of the National Performance Review, including: a 2,318 reduction in full-time equivalent positions, measured against the number that existed on September 30, 1993; authorization of an end-of-year staffing level for active NOAA Corps officers of 383 as of September 30, 1996, declining to 285 on September 30, 1999; conforming amendments to existing laws to allow such actions; and authorization of separation incentives as apply to members of the Armed Services, subject to the availability of appropriations, and at the discretion of the Administrator.

Section 312. Transfer of Aeronautical Charting.—This section transfers aeronautical charting functions from NOAA to the Federal Aviation Administration effective October 1, 1995, as proposed by the National Performance Review.

Section 313. Regulatory Streamlining.—This section directs the Administrator to eliminate obsolete and redundant regulations and achieve a 45 percent reduction in the volume of regulations by December 31, 1997.

Section 314. Reduction in NOAA Fleet.—This section directs the Administration to revise its fleet modernization plan to achieve the following objectives: a 50 percent reduction in the size of the NOAA fleet over ten years, including decommissioning of six vessels by the end of Fiscal Year 1998; a 50 percent reduction in the cost of construction from 1993 levels; cost-effective contracting out with other vessels; and selling decommissioned vessels.

Section 315. Reduction of Reporting Requirements.—This section directs the Administrator to review and develop a plan to reduce statutory reporting requirements by 50 percent, from those in effect on January 1, 1995.

Section 316. Laboratory Consolidation study.—This section requires NOAA to develop a plan and implementation schedule for the cost-effective consolidation of laboratory facilities.

Subtitle C: Administrative provisions

Section 321. Rules.—This section grants the Administrator rule-making authority consistent with an independent agency.

Section 322. Delegation.—This section grants the Administrator the authority to delegate functions within NOAA as necessary and appropriate.

Section 323 through 332.—These sections authorize the Administrator to administer personnel functions in accordance with Federal Civil Service laws, enter into contracts, use facilities, establish service charges, acquire and maintain property and facilities, acquire copyrights and patents, accept gifts and bequests, accept transfers of funds from other Federal agencies, and establish a seal of office, all as necessary and appropriate in the course of conducting NOAA's business.

Section 333. Status of Administration Under Certain Laws.—This section establishes NOAA as an “agency” of the Federal Government, for purposes as defined in U.S. Code.

Section 334. Assistant Administration as Executive Schedule Positions.—This section replaces the statutory titles of several Assistant Administrators with specific designations, with general titles of “Assistant Administrator.”

Section 335. Coordination of Environmental Policy.—This section establishes NOAA’s consultative and coordinating role vis-a-vis the President’s Council on Environmental Quality.

TITLE IV: ESTABLISHMENT OF THE OFFICE OF PATENTS, TRADEMARKS,
AND STANDARDS

Subtitle A: Establishment

Section 401. Definitions.—This section defines the terms “Office” as the Office of Patents, Trademarks and Standards (OPTS), and “Director” as the Director of OPTS.

Section 402. Establishment of the Office of Patents, Trademarks and Standards.—This section establishes OPTS and the position of the Director, who is to be appointed by the President with Senate Confirmation.

Sections 403 and 404. Functions and Transfers to the Office.—These sections establish the authority of the Director to perform specific functions transferred from the former PTO and NIST in the Department of Commerce. These functions include: the standard-setting functions and labs presently performed and operated by NIST and NTIA; the functions performed by the Office of Technology Policy relating to the Baldrige Quality Award; and all existing functions of PTO.

Section 405. Additional Officers.—This section establishes the positions of: General Counsel, appointed by the President with Senate confirmation; Inspector General, appointed in accordance with the Inspector General Act of 1978, as amended; and Chief Financial Officer, appointed in accordance with the CFO Act, as amended.

Subtitle B: Administrative provisions

Section 411. Rules.—This section grants the Director rulemaking authority consistent with an independent agency.

Section 412. Delegation.—This section grants the Director the authority to delegate functions within OPTS as necessary and appropriate.

Sections 413 through 418.—These sections authorize the Director to administer personnel functions in accordance with Federal Civil Service laws, enter into contracts, acquire copyrights and patents, accept gifts and bequests, accept transfers of funds from other Federal agencies, and establish a seal of office, all as necessary and appropriate in the course of conducting OPTS business.

Section 419. Status of Administration Under Certain Laws.—This section establishes OPTS as an “agency” of the Federal Government, for purposes as defined in U.S. Code.

Subtitle C: Conforming amendments

Sections 421 and 422.—These sections make conforming changes in other laws to reflect that the functions residing in the existing PTO and the NIST are transferred to OPTS.

Section 423. Federal Laboratories under Stevenson-Wydler Technology Innovation Act of 1980.—This section amends the subject act by striking references to offices and functions of NIST and ATP eliminated under earlier sections of this Act.

TITLE V: GOVERNMENT 2000 COMMISSION

Section 501. Short title and purposes.—This section provides that the short title of Title V will be the “Government 2000 Act,” and states that the purpose is to reduce the costs and increase the effectiveness of the Federal Government by reorganizing departments and agencies, consolidating redundant activities, streamlining operations, and decentralizing service delivery in a manner that promotes economy, efficiency, and accountability in Government programs.

The intention is to reduce the size of the Federal workforce, while providing better service to the public through the more effective use of modern technology and other improvements in the organizational work environment. Any reorganization plan should also reflect the need for constituency interests to have appropriate venues for representation of their concerns in the policy formulation and service delivery process.

This section also sets out several specific goals that the commission created under this title is intended to achieve in the way of improved performance of the Federal Government by Fiscal Year 2003, along with achieving an immediate reduction in the number of cabinet departments to no more than ten. The Committee intends that the reorganization plan that is developed will, if implemented, result in a 35 percent reduction in the administrative costs of the Federal Government, along with a six percent compound annual improvement in productivity. With respect to improved performance, the Committee intends that the plan will result in responsiveness and customer-service levels that are comparable to those achieved in the private sector, including a ten-fold improvement in timely delivery of services. For example, if 30 percent of a particular program’s service delivery is not achieving on-time goals today, this should be cut to three percent by the year 2003.

In its February 2, 1995, hearing on Executive Branch reengineering, the Committee received testimony from GAO that these goals are the level of improvement that the Federal Government could reasonably expect to see, if it adopted modern organizational principles, management techniques and information technology. The Committee urges the Commission to be bold in its recommendations, and to use these performance goals as the means to ensure that its proposed reforms are of the scale desired by the Congress.

Section 502. The Commission.—Section 502(a) establishes the *Government 2000 Commission* as an independent commission.

Section 502(b) sets out the duties of the Commission as examining the organization and operation of Federal departments and

agencies, and recommending ways to reduce costs, streamline operations, and improve performance, responsiveness, and accountability. The Commission is to package these recommendations into a single legislative proposal implementing a comprehensive reorganization plan for the Executive Branch. The legislation should also propose other institutional and operational reforms that are consistent with the purposes stated in section 501 and the requirements of section 503.

Section 502(c) provides that the Commission will be made of nine members, appointed on a bipartisan basis. The President, the Majority Leader of the Senate, and the Speaker of the House are each to appoint two members. In addition, the President is to select a chairman of the Commission, who must be acceptable to both the Speaker and Majority Leader. The Minority Leaders of the Senate and of the House will each select one member of the Commission. Any citizen of the United States is eligible for appointment, and they shall be considered special government employees for conflict of interest purposes. All appointments shall be made within 25 calendar days of enactment, except that the Chairman may be appointed within 40 days.

Section 502(d) provides that members terms shall be until termination of the Commission, section 502(e) provides for vacancies to be filled in the same way as the original appointment, and section 502(f) authorizes meetings outside of the District of Columbia.

Section 502(g) provides that the Chairman shall be paid at a rate equal to the daily equivalent of basic pay for Executive Schedule III under 5 U.S.C. 5314, for each day while engaged in Commission duties (unless that person is already a Federal officer or employee). Other members shall be paid at the daily equivalent of the basic pay for Executive Schedule IV under 5 U.S.C. 3515, under the same circumstances. Commissioners shall also receive travel expenses, including per diem in lieu of subsistence.

Section 502(h) provides that a staff director shall be appointed by an affirmative vote of at least five members of the Commission, and that the Director will be paid at the rate of basic pay for Level IV of the Executive Schedule. Section 502(i) provides that the Director is authorized, with the approval of the Commission, to appoint and fix the pay of employees of the Commission, which shall not exceed Level V of the Executive Schedule. Upon the Director's request, the head of any Federal department or agency, or any Member of Congress, may detail an employee to the Commission, with or without reimbursement.

Section 502(j) directs the OMB to provide support services to the Commission, and GAO may provide assistance, including the detailing of employees. Under section 502(k), the temporary services of experts may be procured, following public notice before entering into any such contract. Section 502(l) subjects the Commission to the provisions of the Federal Advisory Committee Act. Section 502(m) authorizes a \$5,000,000 appropriation for the Commission for Fiscal Year 1996, and section 502(n) provides that the Commission shall terminate no later than October 31, 1996.

Section 503. Legislative recommendations.—This section directs the Commission to achieve certain objectives in its reorganization plan. The first is that the plan provide for no more than ten cabi-

net departments, which shall each have responsibility for the development of, and ensuring the proper execution of, governmental and program policy. In arriving at this recommendation, the Committee actively considered three reorganization proposals which called for substantially smaller cabinets than today's 14 departments. These were the proposals of: the Heritage Foundation, which recommended five departments in 1995; then-Congressman Leon Panetta, who proposed six departments in 1991; and the Ash Council, which proposed eight departments in 1971 (the Panetta, Heritage and Ash Council proposals are summarized in Appendix A of this Committee Report).

The plan developed by the Commission must also provide for a reduction in the layers of hierarchy and in the concentration of employees in staff and overhead functions within departments and agencies. In doing so, the Committee expects the redefinition of a cabinet department as a flat, mission-oriented organization responsible for planning and budgeting.

The plan must also provide for an adequate number of operating units (i.e., agencies, bureaus, offices, and other subdepartmental organizations) having primary responsibility for program administration and service delivery, as distinguished from program policy development.

It is the Committee's expectation that the legislation submitted by the Commission will more sharply define the distinction between those two functions, and reflect that distinction in its organizational plan for the Executive Branch. Focusing the cabinet departments on the development and proper execution of policy would allow the consolidation of the existing 14 departments into ten or fewer, without a concomitant increase in the size and complexity of the remaining departmental bureaucracy.

This is why the Commission is charged to consider the consolidation of program administration and service delivery functions into operating units that are independent of individual executive departments. If such an arrangement proves useful, it would—in addition to permitting better coordination of services—enable a significant reduction in the size of the cabinet departments. Furthermore, by consolidating program administration and service delivery into non-departmental operating units, and by integrating and reengineering their processes and activities, these entities could be reduced substantially both in actual number and in their total administrative costs, without sacrificing performance. (Similarly, the centralization of common administrative functions should also be studied, to determine whether this type of streamlining might cut costs while improving performance.)

To be effective, there will likely be a need for new structural arrangements of responsibility and authority that strengthen accountability for performance. For this reason, the Committee further instructs the Commission to consider whether the heads of such program operating units should be non-political, non-career appointments who are hired for a fixed term (e.g., three to five years) under an employment contract with specific, measurable program performance goals. The Government Performance and Results Act of 1993 (P.L. 103-62) already requires agencies to develop such goals for their program activities. These goals could form the

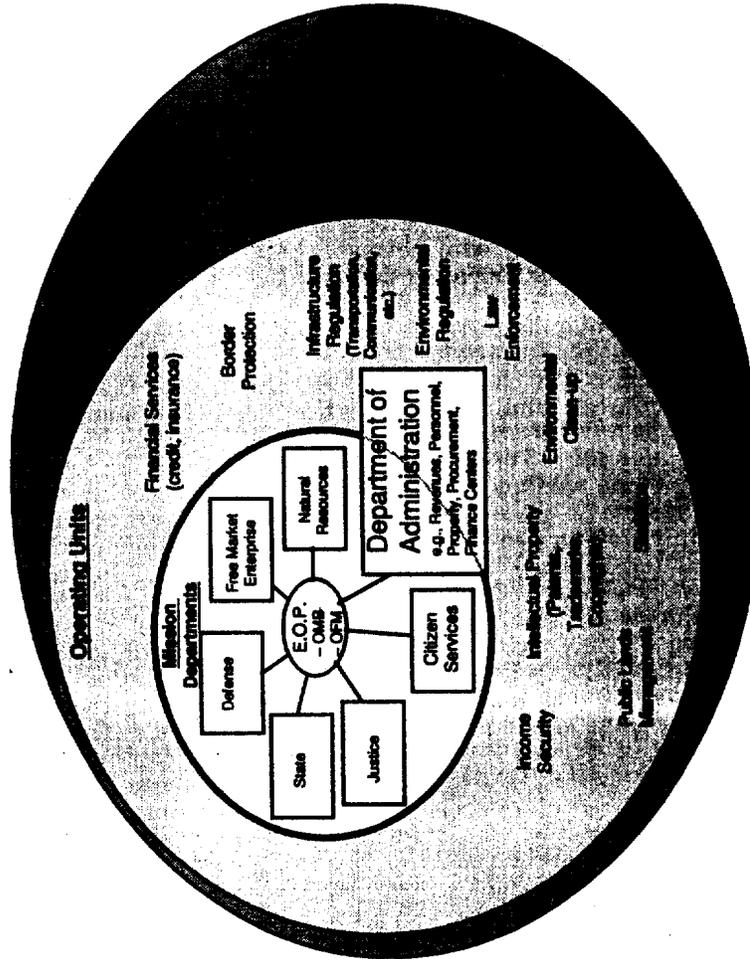
basis for effective performance contracts for program heads, with meaningful pay-for-performance provisions.

The Committee heard testimony that the United Kingdom has taken a similar approach, by creating "executive agencies" headed by chief executives on performance contracts negotiated with ministry heads (though these entities are usually still subunits of particular departments). While the agency staffs remain in the civil service, agency heads (who can negotiate larger salaries and greater administrative flexibilities than might otherwise be available) have no such tenure, but neither are they removed with a change in government. They can, however, be removed for cause (i.e., failure to achieve performance targets) before their contract expires. These "executive agencies" are service delivery mechanisms, with the actual policy underlying those services being developed by the departments and ministries.

This section also charges the Commission with examining agency field structures, and to consider their consolidation where appropriate into a unified system of local offices providing one-stop services to the public. For example, rather than each agency having its own separate system of field offices, these might be consolidated into a system of "citizen service centers," "business service centers," and "intergovernmental service centers" throughout the country. Each office might provide direct linkage to the headquarters of every department and agency, through modern telecommunications technologies. Inter-agency coordination could be enhanced, while allowing citizens, business, and local governments the convenience of dealing with any Federal agency at a single location.

One way of visualizing a Federal Government restructured to incorporate some of the principles and innovations discussed above is presented in Exhibit 2. This vision reflects a "cabinet" of six "mission departments" structured around core Federal missions of Defense, Justice, State (foreign affairs), Natural Resources, Free Market Enterprise (business, commerce and the economy), and Citizen Services (these are essentially the same core cabinet missions reflected in the proposal of then-Congressman Panetta in 1991; see Appendix A). In addition, a seventh Department of Administration performs general government management functions. In the outer tiers are "operating units" structured around core program functions and work processes (e.g., statistics, environmental clean-up, provision of income security services to citizens, etc.), and "service centers," whose customers might include any combination of Federal departments or operating units, citizens, businesses, or state and local governments. The roles and inter-relationships of the three tiers are summarized in Exhibit 3.

Exhibit 2. A Vision of a Federal Government Restructured by Core Missions, Functions and Work Processes



**Exhibit 3. Roles and Responsibilities
of Mission Departments, Operating Units and Service Centers**

Mission Departments	Operating Units	Service Centers
<ul style="list-style-type: none"> - Small Executive Staffs - Broad Strategic Missions - Policy Level Functions and Decision-making - Performance-Driven Planning, Budgeting, and Accountability 	<ul style="list-style-type: none"> - Larger Program Delivery Entities - Specific, Functional Missions - Organized by Core Business Process and Delivery Vehicle (e.g., income security, environmental protection) - Managed for Results - Non-Political Managers with Performance Contracts - Agency, Government Corporation, or Outsourced Delivery - Sunset Existence 	<ul style="list-style-type: none"> - High Tech, "One-Stop," Multi-Program Customer Service Points - Market-Driven Services Delivered by Information Technology - Cost-Reimbursable to Customers (departments, operating units, citizens, businesses, etc.) - Managed for Results and Customer Responsiveness - Outsourced to Private, Non-Profit Sectors, State-Local Governments, Whenever Possible - Non-Political Managers with Performance Contracts

This is just one possible approach the Commission might consider in restructuring the government, reducing overhead costs, and streamlining field structures to bring the Federal Government closer to the people.

Recognizing that any comprehensive reorganization of the Executive Branch can cause disruptions in program performance and service delivery, the Commission is also instructed to recommend a transition plan that minimizes such disruptions. It is expected that this plan will address the capacity of the Executive Branch to manage change of the unprecedented order contemplated by this Act, and will recommend any changes in structure or resources needed to ensure that these challenges are met.

Section 504. Definition.—This section defines “agency” to mean each authority of the Federal Government, including all departments, independent agencies, government-sponsored enterprises, and government corporations, except the legislative branch, judicial branch, the governments of the territories or possessions of the United States, or the District of Columbia.

Section 505. Department and agency cooperation.—This section instructs all Federal agencies and their employees to cooperate fully with all requests for information from the Commission and to respond to such requests within 30 calendar days.

Section 506. Procedures for making recommendations.—This section requires that the Commission, no later than June 1, 1996, submit to Congress a single legislative proposal to implement the recommendations that it developed pursuant to section 503, along with an explanation of the reasons for such recommendations, or to indicate that it was unable to agree on such a proposal. An affirmative vote of six member of the Commission is required to approve any such proposal for submission to Congress.

Section 507. Congressional consideration of reform proposal.—This section specifies the procedures that apply to congressional consideration of a bill submitted to Congress under section 506.

Section 507(a) defines the legislation covered by the section 507 procedures as legislation submitted by the Commission under section 506. It also makes clear that the deadlines in this section are calculated by calendar days, except when Congress has adjourned for a period of more than three days to a date certain. Under Senate rules, such an adjournment requires passage of a concurrent resolution.

Section 507(b) provides for introduction, referral to committee, and committee consideration of the implementing legislation. The Majority and Minority leaders of the House and Senate are directed to introduce, either through their own actions or by members designated by them, the proposed legislation submitted by the Commission, on the first session day in which both houses are in session after submission. The bills are then referred to the Senate Governmental Affairs Committee, the House Government Reform and Oversight Committee, and other committees with jurisdiction. The committees must report the bill or be discharged after 30 days. As is the practice in the Senate under existing rules, committees in both Houses may report the portions of the bills under their jurisdiction together with any amendments proposed to be adopted.

The text of the bill may not, however, be altered prior to floor consideration. All committee amendments must be germane to the bill.

Section 507(c) outlines the procedures for Senate floor consideration of the implementation bill. On the second day after the implementation bill is reported or discharged from all committees, it is in order in the Senate for any Senator to make a privileged motion to proceed to the consideration of the implementation bill, which motion is subject to two hours of debate. Senators are required to give at least one day's notice on the floor of the Senate of his or her intent to make such a motion. Once such a motion is agreed to, the implementation bill becomes the pending business. All points of order against the bill are waived, other than those under Senate Rules 15 or 16, or for any failure to comply with any requirements of section 507. A motion to postpone or to recommit is also not in order. All amendments to the implementation bill must be germane. It shall not be in order to suspend or waive the application of this subsection, except by unanimous consent. Debate over appeals from the decisions of the Chair relating to the application of Senate rules shall be limited to one hour.

Section 507(d) outlines the procedures for consideration of the implementation bill in the House of Representatives. General debate is limited to ten hours, after which the bill shall be considered for amendment by title under the five minute rule. The only amendments that are permitted will be germane amendments. Each amendment shall be debatable for not more than 30 minutes, except that the time for consideration of all amendments shall not exceed 20 hours.

Section 507(e) provides that in the Senate, a motion to elect conferees, or to authorize the Chair to appoint conferees, is non-debatable. This section also directs the conferees to report within 20 days of appointment. It does not, however, require the conference to be dissolved or to file a report in disagreement if, in fact, the conferees have not agreed on a report within 20 days of appointment.

Section 507(f) provides that the provisions of section 507 are enacted as exercises of the rulemaking powers of the House and Senate.

Section 508. Implementation.—This section provides that the OMB shall have primary responsibility for implementation of the Commission's report and any implementation legislation that is enacted, unless otherwise specified in the implementation bill. Federal departments and agencies are required to include a schedule for implementation of the provisions of the implementation act as part of the annual budget request. GAO is given oversight responsibility and is required to report to the Congress and President regarding the accomplishment costs, timetable and effectiveness of the implementation process.

Section 509. Distribution of assets.—This section provides that proceeds from the sale of assets of any department or agency resulting from enactment of the implementation legislation shall be applied to reduce the Federal deficit, and shall be deposited in the treasury as general receipts.

TITLE VI: TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 601. Additional Transfers.—This section provides for the transfer of Department of Commerce functions, not specifically transferred elsewhere and which are incidental and necessary to perform transferred functions, to the agencies to which related functions are transferred.

Section 602. Transfer and Allocations of appropriations and Personnel.—This section provides for the transfer of personnel, funds, and other resources associated with functions transferred under the act to the agencies to which the functions are transferred.

Section 603. Incidental Transfers.—This section authorizes the Director of the OMB to make additional transfers of resources as may be necessary to carry out the purposes of the Act. This includes the transfer of Senior Executive Service positions.

Section 604. Effect on Personnel.—This section provides the following protections for Federal employees: permanent career civil servants performing transferred functions are protected against separation or reduction in grade or compensation for one year after transfer; and Executive Schedule incumbents who continue to perform comparable functions after transfer are protected against reductions in compensation for as long as they hold their positions. Positions held by presidential appointees confirmed by the Senate whose functions are transferred will terminate on the effective date of this act.

Section 605. Savings Provisions.—This section provides for the orderly continuation (with certain exceptions) of legal arrangements (regulations, contracts, administrative actions, etc.) made by affected agencies until superseded by later actions.

Section 606, 607 and 608.—This section provides for severability of actions, cross-references in existing laws to affected agencies. The heads of agencies receiving transferred functions are authorized access to resources of the affected agencies for transitional purposes.

Section 609. Additional Conformation Amendments.—This section requires agency heads receiving transferred functions to submit additional conforming legislation within six months of enactment.

TITLE VII: MISCELLANEOUS

Section 701. Effective Date.—This Act takes effect 180 days after enactment (except Section 608, providing for transitional assistance, which takes effect upon enactment). The officers provided for in the Act may be nominated and appointed at any time after enactment.

The Secretary of Commerce, the USTR, and the head of agencies receiving functions under the Act are authorized to promulgate regulations upon enactment. Interim compensation and expenses are provided upon approval of the Director of the OMB.

Section 702. Interim Appointments.—The President is authorized to appoint interim presidential appointees prior to permanent appointments taking effect under the Act.

Section 703. Management of Property by General Services Administration.—GSA is authorized to perform transition management functions required in implementing this Act.

Section 704. Buy Out Authority for Department of Commerce.—This section authorizes the Department of Commerce to offer incentive payments to employees for voluntary separation prior to September 30, 1996.

Section 705. Reports by The Office of Management and Budget.—OMB is directed to assess further consolidation of OPIC, Ex-Im Bank and TDA within the USTA; streamlining and privatization of various NOAA functions; consolidation of environmental research functions performed by NOAA, EPA and other natural resources agencies; and further consolidation of statistical functions into a single Federal statistics agency.

Section 706. Personnel and Funding Reductions Resulting from Reorganization.—This section directs OMB, in consultation with the USTR and heads of affected agencies, to ensure that the total of savings from programs transferred or terminated from the Commerce Department under this Act achieve at least a ten percent reduction in the first year after the Act takes effect, and a 35 percent reduction in the second year. These reductions apply only to programs associated with the dismantled Commerce Department and are to be measured against the post-rescissions “baseline” of the Department’s FY 1995 appropriation (i.e., the appropriation level that existed at the time of the mark-up). OMB is directed to prepare a funding reduction implementation plan.

Section 707. Authorization of Appropriations.—The Act authorizes appropriations of sufficient funds to carry out the purposes of the Act.

VI. REGULATORY IMPACT STATEMENT

Pursuant to paragraph 11(b), rule XXVI of the Standing Rules of the Senate, the Committee, after due consideration, concludes that S. 929 will have only minor regulatory impact. However, the commission established by this Act may have significant regulatory impact via the recommendations it makes and their possible enactment into law.

VII. COST ANALYSIS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 20, 1995.

Hon. TED STEVENS,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 929, the Commerce Department Termination and Government Reorganization Act of 1995.

Enacting S. 929 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 929.
2. Bill title: Commerce Department Termination and Government Reorganization Act of 1995.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on September 7, 1995.
4. Bill purpose: S. 929 would abolish the Department of Commerce by terminating some of its agencies and transferring the functions of others. Specifically, the bill would:

Establish a United States Trade Administration (USTA), which would carry out the current functions of the United States Trade Representative (USTR), the International Trade Administration (ITA), the Bureau of Export Administration (BXA), the Export-Import Bank, the Overseas Private Investment Corporation, the United States Travel and Tourism Administration (USTTA), and the Trade and Development Administration;

Abolish the Economic Development Administration (EDA), the Minority Business Development Administration (MBDA), the Technology Administration, the Advanced Technology Program (ATP), the Manufacturing Extension Programs (MEP), the Office of Chief Economist and the grant functions of the National Telecommunications and Information Administration (NTIA);

Direct the General Services Administration (GSA) to sell the property of the National Technical Information Service (NTIS); Transfer the Bureau of the Census and most of the Bureau of Economic Analysis to the Department of Labor;

Establish the National Oceanic and Atmospheric Administration (NOAA) as an independent agency;

Establish the Office of Patents, Trademarks, and Standards (PTSO) to carry out the functions of the Patent and Trademark Office and the National Institute of Standards and Technology (NIST); and

Establish a Government 2000 Commission to examine the organization of the federal government and to develop recommendations to reduce the costs and increase the productivity of federal departments and agencies.

5. Estimated cost to the Federal Government: Assuming appropriations at the 1995 level for those commerce-related functions that would continue to be carried out under this bill, CBO estimates that outlays for these activities would total \$20.6 billion over the 1996–2000 period. Most of the functions of the Department of Commerce are not authorized through 1995 under current law. Measured against the existing authorizations for the 1996–2000 period, we estimate that the \$20.6 billion would represent additional spending of \$8.9 billion over the five-year period. We also estimate that the bill would result in asset sale receipts of \$13 million in

1997. The table on the following page summarizes the CBO's estimates of the budgetary effects of these proposals, relative to current law, for the 1996–2000 period.

By comparison, continuing the funding of all the affected programs at the same levels as provided for fiscal year 1995—that is, assuming that no programs or functions are eliminated—would result in a five-year spending total of about \$23 billion. (The year-by-year components of this figure are shown as a memorandum item in the table.) Measured against these current funding levels, S. 929 would allow for a reduction in spending on the commerce programs affected by this bill of about \$2.4 billion over the 1996–2000 period.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
RECEIPTS FROM ASSET SALES ¹						
Estimated budget authority			– 13			
Estimated outlays			– 13			
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Spending under current law:						
Authorization level ²	4,823	4,031	1,509	649	649	636
Estimated outlays	4,072	4,023	3,069	2,127	1,438	980
Proposed changes:						
Estimated authorization level		476	2,320	3,164	3,150	3,145
Estimated outlays		254	1,357	2,064	2,470	2,774
Spending under proposal:						
Estimated authorization level	4,823	4,507	3,829	3,813	3,799	3,781
Estimated outlays	4,072	4,277	4,426	4,191	3,908	3,754
Memorandum:						
Spending assuming continued funding at 1995 levels						
Estimated authorization level	4,823	4,800	4,807	4,792	4,776	4,760
Estimated outlays	4,072	4,351	4,622	4,671	4,661	4,657

¹Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

²The 1995 level is the amount appropriated for that year. The 1996 level includes amounts assumed to be appropriated for program continuations until the provisions of S. 929 would become effective around the end of the third quarter of fiscal year 1996. The amounts shown for the remainder of 1996 and for 1997 through 2000 reflect authorizations under current law. Some commerce programs are currently authorized beyond 1995 while others are not.

The costs of this bill fall within budget functions 150, 300, 370, 450, 500, and 800.

6. Basis of estimate: This estimate assumes that S. 929 will be enacted by the end of calendar year 1995 and that all amounts authorized are appropriated for each fiscal year. Authorizations of spending for new and continued programs are shown for three-quarters of fiscal year 1996. The estimate would change if the bill is enacted later. The amounts estimated for spending subject to appropriations could change if appropriations for any of these programs are enacted prior to enactment of S. 929. The estimate assumes that outlays would follow historical rates of spending for the affected programs. Because the bill's provisions would not become effective until six months after enactment, potential savings in fiscal year 1996 are minimal. Moreover, relatively low rates of spending for some of the affected programs means that most of the potential reductions in commerce appropriations would not translate into outlay savings until after fiscal year 1997.

Asset sales

CBO estimates that the sale of NTIS would yield about \$13 million in asset sale receipts during fiscal year 1997. In estimating the proceeds from the sale of NTIS, CBO examined such factors as the increasing availability of federal documents over the internet and the efficiency savings that might result if a private firm owned NTIS. We expect that GSA would be able to dispose of this property without incurring significant costs.

Spending subject to appropriations

CBO estimates that S. 929 would provide new authorizations of appropriations of about \$12.3 billion over the 1996–2000 period, assuming that the authorized programs continue to be funded at the 1995 level. Several agencies or programs that are not currently authorized would be reauthorized by this bill, including NOAA and agencies that would be consolidated into the proposed PTSO. The costs of continuing these programs are shown in the table as proposed changes—relative to authorizations under current law—in spending subject to appropriations action.

As indicated by the estimated authorization levels in the table, we estimate that by fiscal year 1997, annual funding requirements would decline by about \$1 billion from the 1995 level, reflecting the elimination of some agencies and programs. Because the bill would not go into effect until the end of the third quarter of fiscal year 1996, we have assumed appropriations comparable with fiscal year 1995 levels for the first three quarters of the year.

Creation of New Agencies.—S. 929 would create the United States Trade Administration (USTA), which would be responsible for conducting trade negotiations and advising the President on international trade policy. The bill would transfer to the new agency the USTR, ITA, USTTA, most of BXA, and the policy functions of NTIA, as well as other agencies currently outside of the Department of Commerce. The bill authorizes appropriations as necessary for the new agency. Assuming annual appropriations at the 1995 levels for the functions being continued (about \$1.35 billion), CBO estimates that outlays would total \$4.2 billion for these trade-related activities over the 1996–2000 period.

The bill also would create the Office of Patents, Trademarks, and Standards and would authorize appropriations as necessary for the new agency. Assuming annual appropriations at the 1995 levels for the functions being continued (about \$0.4 billion), CBO estimates that outlays would total \$1.8 billion over the 1996–2000 period.

The National Oceanic and Atmospheric Administration also would be established as an independent agency under S. 929. NOAA would retain its current mission and goals under the bill but would be required to reduce the number of its employees and the size of its fleet. For purposes of this estimate, CBO assumes that these cost reductions would be offset by increased contracting expenditures. Assuming annual appropriations at the 1995 levels for the functions being continued (about \$1.9 billion) would result in discretionary spending totaling \$9.6 billion over the 1996–2000 period.

S. 929 would authorize \$5 million in fiscal year 1996 for the proposed Government 2000 Commission. The commission would de-

velop legislative recommendations to reduce the scope of the federal government. In addition, the Office of Management and Budget (OMB) would be authorized to make any other transfers of programs and personnel, and resolve any outstanding obligations (such as grant outlays) from former programs of the Department of Commerce. Based on information from OMB, CBO estimates that the agency would incur no significant additional costs to carry out these functions.

Transfer of Department of Commerce Functions.—S. 929 would transfer the Bureau of the Census and most of the Bureau of Economic Analysis to the Department of Labor. It also would transfer the spectrum management functions of NTIA to the GSA. Because the bill does not specify any increase or decrease in authorizations for these agencies or provide guidelines for structuring their operations, CBO estimates that there would be no significant budgetary impact of these transfers.

The bill also would transfer aeronautical charting functions currently performed by NOAA to the Federal Aviation Administration (FAA). Based on information provided by the Department of Commerce and the FAA, CBO estimates that this transfer would not affect mandatory receipts from the sale of charts and would not have a significant impact on discretionary expenditures.

Elimination of Agencies and Programs.—S. 929 would abolish several agencies and programs within the Department of Commerce. Several of the agencies or programs, including the MEP, ATP, MBDA, EDA, and NTIA, are not currently authorized beyond fiscal year 1995.

Terminations would take effect six months after enactment; therefore, any termination costs would likely be paid from appropriations for fiscal year 1996. CBO estimates that the federal government would spend \$33 million for program terminations in fiscal year 1996. Termination costs would arise from the government's obligation to provide federal employees with severance pay and payments for accrued annual leave, and for other necessary costs to close an agency.

In general, termination costs may trigger direct spending if there are insufficient funds appropriated to cover such costs. However, S. 929 includes a provision authorizing appropriations of amounts necessary to cover termination costs and specifically makes terminations contingent upon the appropriation of the necessary funds. Hence, CBO estimates that enacting S. 929 would not cause any direct spending for program terminations.

Section 704 of the bill would authorize the Department of Commerce (DOC) to make voluntary separation incentive payments to those employees who voluntarily separate on or before September 30, 1996. Although DOC cannot predict whether it would offer separation incentives, CBO assumes that use of incentive payments would be limited to agencies within the DOC that are not being terminated. Agencies that are being terminated do not need to seek voluntary separations when they know the positions are being terminated anyway.

CBO estimates that about 1,000 incentive payments would be paid in fiscal year 1996 with an average payment of about \$24,000. Since exercise of this authority is conditional on the provision of

funds in advance in an appropriations act, we estimate that implementing section 704 would result in \$24 million in discretionary costs in 1996 only.

CBO does not estimate a cost to the civilian retirement system resulting from eliminating positions at the Department of Commerce. Although some of the employees who lose their jobs would be eligible for retirement, CBO expects that some of these individuals would find work elsewhere in the federal government. Others would retire, but no so many as to exceed the number of retirements assumed in CBO's baseline as a result of expected government downsizing for fiscal years 1996 through 2000.

Funding Reductions.—Subsection 706 of S. 929 would direct the Office of Management and Budget to take any action necessary to reduce the funding of all agencies and programs under this act by 10 percent in the year following enactment (fiscal year 1997), and 35 percent in the second year (fiscal year 1998), compared to funding for the Department of Commerce in fiscal year 1995. However, the language does not provide any enforcement measures if appropriations do not conform to this directive. Therefore, we did not incorporate, any potential effect of this language in our estimate of spending under the bill.

Our estimates of total authorization amounts for fiscal years 1997 and 1998 are both slightly less than 80 percent of the 1995 appropriated total. Hence, CBO's estimates of authorization amounts would allow for meeting the first-year goal of a 10 percent cut in fiscal year 1997, but would not conform to the goal of a 35 percent cut in fiscal year 1998.

7. Estimated cost to State and local governments: A number of provisions of the bill would directly affect state and local government budgets. The biggest effect would be from the termination of the Economic Development Administration (EDA), which provides hundreds of millions of dollars in grants to states and localities each year. The bill also would abolish other, smaller grant programs as well as an extension program that is jointly funded by the federal government and state and local governments.

The bill would terminate the EDA, which provides public works grants, other financial assistance, and planning and coordination assistance to economically distressed areas of the country. These programs, which were funded at \$418 million in fiscal year 1995, are generally administered by state or local development agencies.

The bill also would abolish the Information Infrastructure Grants Program and the Public Telecommunications Facilities Program of the NTIA. Funding for these programs in fiscal year 1995 was \$64 million and \$29 million, respectively. A significant portion of these funds are allocated to public institutions, including universities and colleges.

The bill would abolish the State Technology Extension Program and the Manufacturing Extension Centers Program of NIST. The State Technology Extension Program provides planning grants to states to develop or revitalize their technology programs. The fiscal year 1995 funding for this program was \$6 million. The Manufacturing Extension Centers Program transfers technology to small- and medium-sized businesses through government-industry partnerships and extension services. It involves cooperative agreements

between the federal government and nonprofit institutions that are often funded by state or local development agencies or universities. These agreements can last up to six years and provide up to 50 percent funding for the manufacturing centers in the first three years and a declining percentage in subsequent years. Thus, the elimination of federal funding might result in the need for additional state or local funding to continue operation of the centers. The fiscal year 1995 funding for this program was \$69 million.

Finally, the bill would abolish the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation and the Federal Laboratory Consortium for Technology Transfer. The clearinghouse was created to help state and local governments develop technology transfer programs. The consortium was created to help private industry and state and local governments take advantage of technology developed in federal laboratories. While these changes would eliminate sources of information and technical assistance for state and local governments, they would not directly affect state and local government budgets.

8. Estimate comparison: None.

9. Previous CBO estimate: On October 6, 1995, CBO prepared a cost estimate for the reconciliation recommendations of the House Committee on Commerce, which included a subsection that would dismantle the Department of Commerce. While somewhat similar to S. 929, it differs from S. 929 in some significant ways. For instance, under the Commerce Committee's recommendations, several NOAA programs would be either transferred to other agencies or abolished, and the laboratories of NIST and NTIA, as well as the functions of NTIS, would be sold. By comparison, S. 929 would keep NOAA intact as an independent agency and would privatize NTIS, though not the NIST or NTIA labs.

We estimated that the House Commerce provisions would authorize appropriations of about \$13 billion over fiscal years 1996 through 2000, slightly more than what we estimate in new authorizations for S. 929. Further, we estimated that the House Commerce Committee's reconciliation recommendations would cause \$452 million in direct spending. Most of that amount would result from a proposal to allow direct spending of the surcharge fees collected by the Patent and Trademark Office, which would become a wholly owned government corporation under the House Commerce provisions. In contrast, S. 929 would not incur any direct spending. S. 929 would keep Patent and Trademark spending subject to appropriations, and it would not require any immediate terminations, as would the House Commerce reconciliation provisions. Finally, CBO estimated net receipts from asset sales of \$7 million for the House Commerce reconciliation provisions. Such net receipts would occur from offsetting the cost of selling the EDA loan portfolio against the receipts from selling NTIS functions. S. 929 would direct the sale of NTIS functions only.

10. Estimate prepared by: Federal Cost Estimate: Rachel Robertson, Rachel Forward, and Gary Brown; and—for retirement issues—Wayne Boyington.

State and Local Cost Estimate: Pepper Santalucia.

11. Estimate approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.

VIII. ADDITIONAL VIEWS OF SENATOR COHEN

While I voted to report S. 929, the Commerce Department Termination Act, to the Senate, I did so with some reservations, and I cannot guarantee that I will vote for this bill if it reaches the Senate floor.

As I indicated during mark-up of this legislation, one of my primary concerns with this bill is the provision to consolidate some Economic Development Administration programs into the Departments of Defense and Agriculture. The EDA plays a vital role in Maine, especially in areas hard hit by defense budget cutbacks. EDA programs are among the most successful federal economic development efforts in my state, and my preference would be to simply maintain the Economic Development Administration as a district entity.

BILL COHEN.

IX. MINORITY VIEWS OF SENATORS GLENN, NUNN, LEVIN,
PRYOR, LIEBERMAN, AKAKA, AND DORGAN

We oppose the Roth substitute to S. 929.

We live in an economically inter-dependent world—a world in which trade and technology—the two primary missions of the Commerce Department—are playing an increasingly important role. We are strong supporters of the current Commerce Department for those reasons. We need a strong advocate for U.S. business at the Cabinet table and we believe that Secretary Brown has been very effective in playing that role. During the two days of hearings before this Committee, he was praised by both Republicans and Democrats alike for his performance. The Majority even notes in the Committee report that Secretary Brown “has received high marks for his active promotion of American exports.” Under his leadership, the Commerce Department has been transformed from a bureaucratic backwater into an export promotion dynamo. For example, the Wall Street Journal reported just over a month ago how he and the Department made an all-out effort to secure a \$1.4 billion contract in Brazil for a consortium of U.S. companies. If you ask the executives in those companies, they’ll tell you that they would have lost that contract to foreign competition if it hadn’t been for the personal efforts of the Secretary.

The Department spends about \$250 million a year in trade promotion, which in 1994 yielded \$20 billion in exports for U.S. companies. That amount supports about 300,000 U.S. jobs. The Department’s International Trade Administration has done an outstanding job back in our home states—it has a network of 73 U.S. offices and 130 offices overseas—and ITA estimates that for every taxpayer dollar it spends on export promotion, \$10.40 is returned to the Federal treasury through tax revenues generated by exports. Also, the Department has very capably assisted the USTR in our Uruguay Round and NAFTA trade negotiations on issues ranging from auto parts, to textiles, to international copyright law. Not surprisingly these efforts, combined with a sound Clinton administration economic policy, have helped lead to a 17 percent increase in U.S. exports for the first five months of this year.

We are entering the information age, spurred by rapid changes in information technology. It’s an exciting time. The private sector is leading the way into the information economy. And that’s as it should be. But are our colleagues aware that the Federal government established the first computer information network? It was developed by the Department of Defense and was called the ARPAnet. The ARPAnet was the predecessor to today’s Internet. In so many other areas of technological advancements that we readily take for granted, the Federal government took the initial role of funding the R & D for technologies that later ended up powering our economy and improving our way of life. The Commerce Depart-

ment is playing a key part in this development. NIST's Advanced Technology Program has been funding R & D in a cooperative partnership with the private sector to develop the technologies of tomorrow. The National Telecommunications Information Administration has been providing grants to develop the National Information Infrastructure, the so-called Information Superhighway. And the Technology Administration is coordinating interagency R & D on building the automobile of the 21st century. But the Roth substitute rejects this approach in investing in the technologies of the future. It terminates NIST's Advanced Technology Program, the Technology Administration and the NTIA. And it ends the Manufacturing Extension Program, a program designed to help U.S. small manufacturers adjust to the rapid changes in technology and our economy.

This is not to say that Commerce could not be reorganized so as to strengthen its mission and improve its effectiveness. We have sponsored or cosponsored legislation in the past to reorganize the trade and technology functions of the Federal government, to bring them together under one roof in a Cabinet Department of Trade, or Department of Trade and Technology. However, we did not propose destruction of the Department and the scattering of its component parts.

We are advocates of looking at the need to restructure and reorganize the entire Federal government, and to do it carefully and in an integrated way, not just on a piecemeal basis. That's why we favor the approach taken in Title V of the Roth substitute—the establishment of a bi-partisan commission to design the government of the 21st Century. The basic structure of the Federal government really hasn't changed much over the last 25 years. And we don't believe its current structure reflects the changes that our economy and society has undergone recently. So it needs to be examined and a bi-partisan, expert commission is really the best approach to take. Two years ago we supported the creation of such a commission to submit legislative recommendations on restructuring the Federal government that Congress would have to consider on a "fast-track" basis. We still support this approach and we voted for the Glenn amendment in markup to establish such a commission as a substitute to the Roth substitute. Unfortunately, that amendment lost on a party-line vote.

If Titles I through IV of this legislation were about reorganizing the Commerce Department, or about implementing a rational downsizing plan for the Department, then we believe that we could work together with the Majority to produce good legislation. But this legislation isn't about reorganizing the Federal government's trade and technology programs to better coordinate them and improve their efficiency. Nor is this legislation about a rational downsizing of the Department. That's underway now. The Department is reducing its 35,000 person workforce in line with the President's plan to reduce the overall Federal workforce by 272,000 positions by 1999. Under the leadership of the National Performance Review, the Department is examining the privatization of the National Technical Information Service, parts of NOAA, as well as other programs. It is phasing out the Travel and Tourism Administration and modernizing Census collection.

What this debate is about is the elimination of a Cabinet Department for purely symbolic and political reasons. The Roth substitute applies a blowtorch to \$1 billion worth of Federal agencies and programs in the Department, melts them down, and terminates them. Agencies that survive will be hobbled by a 10 percent cut the first year and a 35 percent cut the second.

Most of that cut will fall on NOAA, at \$1.9 billion the largest remaining agency and the home of the National Weather Service. And we're considering these draconian cuts at a time when the Florida coast continues to be battered by hurricanes. That's just plain foolish. Further, both House and Senate Appropriations Committees have rejected such deep cuts in NOAA's budget. Those Committees also preserved the Economic Development Administration, recognizing its value to economically-distressed regions of the nation, especially those that have been negatively impacted by base closing. Yet this Committee has decided to terminate the EDA.

The Roth substitute transfers the Ex-Im Bank, OPIC, and the Trade and Development Agency into the new U.S. Trade Administration, consolidations that we've supported in past legislation. But unfortunately these agencies are being transferred into an "administration" and not a Cabinet Department. When our companies are fighting for large government contracts overseas and are competing against a Team Japan, or a Team Germany, we think it makes a difference when the respective foreign government gets the call from a U.S. Cabinet Secretary, as opposed to a lower ranking Administrator.

In the Committee report, the Majority discusses how downsizing and streamlining has been taking place in the private sector. We believe that an examination of the restructuring undertaken by the private sector is relevant in this context. Independent studies of private sector restructuring efforts show that their success is a hit or miss proposition and depends on several factors. A 1993 survey of over 500 U.S. companies by the Wyatt Company revealed that only 60 percent of the companies actually were able to reduce costs in their restructuring efforts. Both the Wyatt Survey and a similar one conducted by the American Management Association concluded that successful restructuring efforts must be planned carefully with a clear vision of their goals and objectives, and that proper attention be given to maintaining employee morale and productivity. Otherwise, the costs of reorganization may outweigh its benefits.

We believe that government reorganization is a complicated task that cannot be successfully accomplished without serious study and deliberation, especially if it is going to achieve the dual goal of improving government efficiency and reducing costs. That means reorganization should follow not precede the recommendations of a bipartisan commission. We should not be reorganizing the Commerce Department first and then forming a government commission to restructure the rest of government, as the Roth substitute proposes. That doesn't make any sense. Our hope is that the Majority will abandon its narrow focus on the Commerce Department and focus instead on the more important issue of reorganizing and streamlining the Federal government to improve its efficiency and cost-effectiveness. Until then, we will continue to oppose this legislation.

MINORITY VIEWS OF SENATOR LEVIN

In addition to endorsing the minority views of Senator Glenn, I want to highlight three key flaws in the Roth substitute to S. 929.

The first is the approach the bill takes to dismantling the Department of Commerce. The bill's stated goal is to streamline government. But replacing this one department with three new agencies isn't a plan that will simplify or shrink government.

Two of the new agencies, NOAA and the Office of Patents, Trademarks and Standards, are characterized in the Committee report as temporary solutions pending a more comprehensive government reorganization. Such piecemeal, short-term box-shuffling of programs may produce little more than red tape, confusion and disruption.

The bill also eliminates key industry programs critical to U.S. exports. Almost 90% of U.S. exports are manufactured goods which provide the high-wage jobs American families need, yet the bill slashes cost effective, proven ways to improve manufacturing. Slashing these programs strikes at the heart of American competitiveness.

The bill eliminates, for example, the Manufacturing Extension Partnership program which supports 42 centers across the country that help small and mid-sized manufacturers compete globally. It eliminates the Advanced Technology Program that leverages hundreds of millions of dollars from business for cooperative research into state-of-the-art technologies critical to future exports. It eliminates the Economic Development Administration which targets federal economic assistance to distressed areas, including communities crippled by the closing of a military base. It eliminates the National Telecommunications and Information Administration which helps schools, hospitals and others get onto the information superhighway. It separates the National Institute of Standards and Technology (NIST) from the rest of the Commerce Department's trade programs even though NIST leads the fight to lower non-tariff trade barriers to U.S. goods by negotiating international industry standards and winning acceptance of U.S. standards.

The bill demolishes or fragments every one of the Department's industry programs. It also threatens surviving Commerce programs by mandating an overall funding cut of 35% over two years. The United States is already dead last among its major trading partners in spending to build exports. Germany, for example, spends twice as much as we do. Japan currently invests 35% more than the U.S. on a per capita basis in civilian technology and plans to double the country's R&D spending by the year 2000. Yet this bill slashes U.S. manufacturing and technology development.

We've spent weeks on the Senate floor talking about the need for cost effective federal programs. The Manufacturing Extension Partnership cost \$71 million in FY94. A study of just 500 manufactur-

ing companies that used the program to improve their operations found that these companies had experienced \$167 million in new sales, investments and cost savings and generated 3,400 new jobs. Taxpayers are getting a significant return on every dollar spent on this program.

The Advanced Technology Program has been in operation only a few years so conclusive numbers aren't in, but initial data shows the program is accelerating technology development, encouraging productive partnerships between American firms, and producing new jobs at 90% of the small firms surveyed.

The Commerce Department industry programs represent a small percentage of the Department's entire budget, yet produce enviable results and the praise of business and community members alike. These are exactly the low-cost, high customer satisfaction programs that we want from government. It defies common sense to put them on the chopping block.

The bill's ill-advised treatment of the Commerce Department highlights a second basic flaw in this bill. It puts the horse before the cart. It dismantles the Commerce Department and scatters or eliminates important programs before obtaining the plan for overhauling the executive branch. The Committee justifies this action by citing a provision in the 1996 budget plan that targets the Commerce Department for dismantlement. But that explanation fails to take into account subsequent actions in both Houses reaffirming Commerce Department programs. Just last month, for example, the Senate Commerce Committee approved a bipartisan bill reauthorizing the very industry and technology programs terminated here.

Dismantling the Commerce Department in advance of obtaining the overall government reorganization plan which the bill also mandates is like saying "ready, fire, aim." It creates confusion, misdirects resources and produces new bureaucracies that no one wants to sustain.

Finally, the bill provisions creating the Government 2000 Commission need improvement. In practical terms, the bill provides only about 6 months to draft a new masterplan for overhauling the federal government. There is no requirement or formal mechanism for Presidential input or for public comment on an initial draft.

Congress is the primary check on the Government 2000 Commission's work, yet the bill severely limits the scope of Congressional review. The bill provisions imposing expedited procedures for Congressional consideration are modeled after those in the legislation that created the military base closing commission. But in this case Congress won't be reviewing recommendations to close specific military installations; it will be reviewing a single blueprint for a whole new executive branch.

One ticking time-bomb in the bill's expedited procedures is a germaneness requirement that will restrict not only amendments offered on the floor in the House and Senate, but also in every Congressional committee.

A germaneness restriction on a proposal of this scope—reforming virtually every facet of the executive branch—is dangerous and unnecessary. Germaneness is a rigid rule, far more limiting than a requirement for relevant amendments; among other constraints, it prohibits broadening the scope of a bill. Suppose, for example, com-

mission provisions revamping veteran programs inadvertently eliminate an important health program which the commission agrees should continue. A germaneness requirement could preclude restoring that program, even in committee. The bill's tight time restrictions already severely limit Congressional consideration of the commission's proposed masterplan; the germaneness restriction would hamstring the amendment process and could even preclude sensible and widely supported alterations. The germaneness restriction should be dropped.

Government reform is needed. For that reason I support forming a bipartisan commission at this time to propose an executive branch overhaul. However, the commission and the Congress need the time and tools to do it right. Proposals for reforming the Commerce Department should come after, not before, a new masterplan is drawn.

CARL LEVIN.

ADDITIONAL MINORITY VIEWS OF SENATOR PRYOR

The Economic Development Administration (EDA) has been crucial to rebuilding distressed rural and urban communities in every state across America. Not by providing Government handouts, but by helping communities become economically self-sufficient. EDA's goal is to invest limited Federal dollars in communities so that they can attract new industry, spur private investment, and encourage business expansion.

EDA has had strong bipartisan support since it was created in 1965. In fact, during this year's debate on the FY 1996 Commerce, State, and Justice Appropriations bill, the House of Representatives approved a \$348.5 million appropriation for EDA. When the bill reached the House floor, an amendment was introduced to eliminate funding for EDA. This vote failed by an overwhelming bipartisan vote of 315-110.

Similarly, during the debate on this bill in the Senate, Senator Olympia Snowe and I introduced a Sense of the Congress amendment supporting the House-passed appropriation over the Senate mark of \$100 million. This amendment had 18 bipartisan co-sponsors. The amendment was unanimously accepted by the Senate on September 29.

EDA gets more "bang for the buck" by creating partnerships with local, county, and State governments and economic development entities. These partnerships help to provide planning, financial, technical, and specialized assistance to help develop infrastructure and create jobs in these distressed areas.

In fact, for every EDA dollar invested, more than \$3 in outside investment has been generated. In the last 30 years, EDA has invested over \$15 billion in local communities in need of financial assistance. This investment has resulted in the creation or the retention of more than 2.8 million American jobs.

Perhaps the largest and best-known mission of EDA is in the field of defense conversion. EDA is life support for base closure towns searching for new direction and new life after the Cold War.

In 1988, 1991, and 1993, we closed 250 military bases across America. Just months ago, the 1995 Base Closure Commission recommended the closing or realignment of another 130 bases. Communities surrounding these bases and defense factories being downsized face massive revenue and job losses. EDA is often the only place cities and towns can turn for help in getting back on their feet.

Since 1992, EDA has provided 173 grants, matched by local funds, totalling almost \$288 million to these communities. The Federal Government has a responsibility to step in and provide a helping hand to communities that face the loss of a military base or a defense production facility.

The Committee has recommended preserving EDA's defense conversion authority by transferring this authority to the Department of Defense. This action breaks off one of EDA's important functions, and appears to contradict recent Congressional actions opposing the creation of new programs in the Defense Department that benefit non-defense causes, such as economic development. EDA is the only Federal agency with the resources and tools that can help defense-impacted communities implement plans for base reuse and locally-identified recovery plans. These defense conversion activities must remain at EDA so their experienced staff can completely perform the critical role of rebuilding communities that lose defense installations.

EDA is made up of many vital community assistance programs including the Public Works Program, Economic Adjustment Assistance Program, Planning and Technical Services, Trade Adjustment Assistance, and Post Disaster Assistance. All of these programs serve a defined need and they cannot efficiently and effectively operate if they are dispersed to different agencies and or eliminated. These programs must be kept together under the EDA umbrella.

The Committee has also recommended moving EDA's non-defense infrastructure grant authorities to the Rural Development Administration in the U.S. Department of Agriculture. Unfortunately, this action implies that EDA provides assistance to rural areas only, despite the tremendous contributions EDA makes to the economies of non-rural areas across America.

There has been criticism in the past about EDA's management and about certain grants that have been made. EDA, along with other government agencies has reinvented itself and has become more effective and efficient. The EDA has trimmed application processing down to 60 days, cut regulations by 62%, reduced administrative expenses in half from 13.6% in fiscal year 1989 to 6.6% in fiscal year 1995, and in fiscal year 1995 will further reduce its staff from 350 to 309 positions.

Eliminating EDA and its many functions and transferring other programs within EDA to other departments would be shortsighted and costly to the taxpayers. EDA has aided and given hope to many distressed urban and rural areas around the United States that would otherwise not have been provided funding through traditional sources. EDA works and should be continued as a Federal program at the Department of Commerce.

I believe that the Department of Commerce, as well as all other Federal agencies, can be streamlined. This bill, however, is an assortment of transfers and terminations that does nothing to achieve this goal.

DAVID PRYOR.

X. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law to be omitted is enclosed in black brackets, new matter is printed in italic, existing law to which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 3—THE PRESIDENT

CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

* * * * *

3 U.S.C. 19. Vacancy in offices of both President and Vice President; officers eligible to act. * * *

(d)(1) * * *
* * * [Secretary of Commerce]

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TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

OCTOBER 18, 1988, P.L. 100-504, 5 U.S.C.S. Appx sec. 3 INSPECTOR GENERAL ACT OF 1978

AN ACT To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Inspector General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agri-

culture, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

thereby is hereby established in each of such establishments an office of Inspector General.

* * * * *

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

[(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse.]

[(C)] (B) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

[(D)] (C) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

[(E)] (D) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

[(F)] (E) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

[(G)] (F) of the Community Services Administration, the offices of that agency referred to as the “Inspections Division”, the “External Audit Division”, and the “Internal Audit Division”;

[(H)] (G) of the Environmental Protection Agency, the offices of that agency referred to as the “Office of Audit” and the “Security and Inspection Division”;

[(I)] (H) of the General Services Administration, the offices of that agency referred to as the “Office of Audits” and the “Office of Investigations”;

[(J)] (I) of the National Aeronautics and Space Administration, the offices of that agency referred to as the “Management Audit Office” and the “Office of Inspections and Security”;

[(K)] (J) of the Small Business Administration, the office of that agency referred to as the “Office of Audits and Investigations”; and

[(L)] (K) of the Veterans’ Administration, the offices of that agency referred to as the “Office of Audits” and the “Office of Investigations”; and

(L) of the United States Trade Representative, all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of the Department of Commerce relating to the functions transferred to the United States Trade Representative by section 232 of the Commerce Department Termination and Government Reorganization Act of 1995.

* * * * *

SEC. 11. DEFINITIONS.

As used in this Act—

(1) the term “head of the establishment” means the Secretary of Agriculture, * * * the Attorney General; *the United States Trade Representatives*; * * * the Chief Executive Officer of the Corporation for National Community Service; *the Director of the Office of Patents, Trademarks and Standards* * * * or the Commissioner of Social Security, Social Security Administration, or the Administrator of the National Oceanic and Atmospheric Administration; as the case may be;

(2) the term “establishment” means the Department of Agriculture, [Commerce] * * * the Corporation for National and Community Service, *the Office of Patents, Trademarks, and Standards* * * * or the Treasury, *United States Trade Administration*, * * * or the Social Security Administration, or the National Oceanic and Atmospheric Administration; as the case may be;

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CHAPTER 53—PAY RATES AND SYSTEMS

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Subchapter II—Executive Schedule Pay Rates

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5 U.S.C. 5312. Positions at level I.—Level I of the Executive Schedule applies to the following positions for which the annual rate of pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[Secretary of Commerce]

[Special Representative for Trade Negotiations]

The United States Trade Representative of the United States Trade Administration

* * * * *

5 U.S.C. 5313. Positions at Level II.—Level II of the Executive Schedule applies to the following positions for which the annual rate of pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[Deputy Secretary of the Department of Commerce]

Deputy Administrator of the United States Trade Administration

Deputy United States Trade Representatives, United States Trade Administration

* * * * *

5 U.S.C. 5314. Positions at Level III.—Level III of the Executive Schedule applies to the following positions for which the annual rate of pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[Under Secretary of Commerce.]

[Under Secretary of Commerce for Economic Affairs.]

[Under Secretary of Commerce for Export Administration.]

[Under Secretary of Commerce for Travel And Tourism.]

[Under Secretary of Commerce for Oceans and Atmosphere.]

[Under Secretary of Commerce for Technology.]

Assistant Administrators, United States Trade Administration (4)

Administrator of the National Oceanic and Atmospheric Administration

Director of the Office of Patents, Trademarks, and Standards

Director General of the Commercial Service, United States Trade Administration

* * * * *

5 U.S.C. 5315. Positions at Level IV.—Level IV of the Executive Schedule applies to the following positions for which the annual rate of pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[Assistant Secretaries of Commerce (11).]

[General Counsel of the Department of Commerce.]

[Assistant Secretary of Commerce for Oceans and Atmosphere.]

[Director, National Institute of Standards and Technology, Department of Commerce.]

[Assistant Secretary of Commerce and Director General of the United States Foreign Commercial Service.]

[Inspector General, Department of Commerce.]

[Director, Bureau of the Census, Department of Commerce.]

[Chief Financial Officer, Department of Commerce.]

General Counsel, United States Trade Administration.

Inspector General, United States Trade Administration.

Chief Financial Officer, United States Trade Administration.

Deputy Administrator, National Oceanic and Atmospheric Administration.

Director of the Bureau of the Census, Department of the Treasury.

General Counsel, Office of Patents, Trademarks, and Standards.

Inspector General, Office of Patents, Trademarks and Standards.

Chief Financial Officer, Office of Patents, Trademarks and Standards.

Director of the National Institute of Standards and Technology, Office of Patents, Trademarks and Standards.

* * * * *

5 U.S.C. 5316. Positions at Level V.—Level V of the Executive Schedule applies to the following positions for which the annual rate of pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[Commissioner of Patents, Department of Commerce.]

[Director, United States Travel Service, Department of Commerce.]

[National Export Expansion Coordination, Department of Commerce.]

[Assistant Administrator for Coastal Zone Management.]

[National Oceanic and Atmospheric Administration, the Assistant Administrator for Fisheries.]

[Assistant Administrators, National Oceanic and Atmospheric Administration.]

Commissioner of Patents and Trademarks, United States Trade Administration.

Assistant Administrators, National Oceanic and Atmospheric Administration.

* * * * *

TITLE 13—CENSUS

* * * * *

13 U.S.C. 1. DEFINITIONS.—As used in this title, unless the context requires another meaning or unless it is otherwise provided—

(1) “Bureau” means the Bureau of the Census;

(2) "Secretary" means the Secretary of [Commerce] *Labor*,

* * * * *

13 U.S.C. 2. Bureau of the Census.—The Bureau is continued as an agency within, and under the jurisdiction of, the Department of [Commerce] *Labor*.

NOTE.—For all of title 13: [Secretary of Commerce] *Secretary of Labor*; [Department of Commerce] *Department of Labor* as each appears.

TITLE 15

* * * * *

P.L. 100-418; 15 U.S.C. 271 et seq.

The National Institute of Standards and Technology Act

* * * * *

SEC. 2. ESTABLISHMENT, FUNCTIONS AND ACTIVITIES.

(a) ESTABLISHMENT OF NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is established within the [Department of Commerce] *Office of Patents, Trademarks and Standards* a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology (hereafter in this section referred to as the "Institute").

(b) FUNCTIONS OF SECRETARY AND INSTITUTE.—[The Secretary of Commerce (hereafter in this section referred to as the "Secretary")] *The Director of the Office of Patents, Trademarks and Standards* acting through the Director of the Institute (hereafter in this section known as the "Director") and, if appropriate, through other officials, is authorized to take all actions necessary and appropriate to accomplish the purposes of this chapter, including the following functions of the Institute—

* * * * *

(d) INSTITUTE MANAGEMENT OF EXTRAMURAL FUNDING PROGRAMS.—In carrying out the extramural funding programs of the Institute[, including the programs established under sections 25, 26, and 28 of this Act], the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.

NOTE.—In Section 2, [Department of Commerce] *Office of Patents, Trademarks and Standards*; and [Secretary of Commerce] *Director of the Office of Patents, Trademarks and Standards* as each appears.

* * * * *

SEC. 10. VISITING COMMITTEE ON [ADVANCED] STANDARDS AND TECHNOLOGY.

(a) ESTABLISHMENT; APPOINTMENT; MEMBERSHIP AND COMPOSITION; REVIEW AND RECOMMENDATIONS.—There is established within the institute a Visiting Committee on [Advanced] *Standards and Technology* (hereafter in this chapter referred to as the "Committee"). The Committee shall consist of nine members appointed by the Director, at least five of whom shall be from United States

industry. The Director shall appoint as original members of the Committee any final members of the National Bureau of Standards Visiting Committee who wish to serve in such capacity. In addition to any powers and functions otherwise granted to it by this chapter, the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and Congress.

* * * * *

【Section 24. Studies by the National Research Council】

【Section 25. Regional Centers for the Transfer of Manufacturing Technology】

【Section 26. Assistance to State Technology Programs】

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【Section 28. Advanced Technology Program】

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15 U.S.C. 1501, 1511, and 1516

CHAP. 552.—AN ACT To establish the Department of Commerce and Labor.

【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be at the seat of government an executive department to be known as the Department of Commerce and Labor, and a Secretary of Commerce and Labor, who shall be the head thereof, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall receive a salary of eight thousand dollars per annum, and whose term and tenure of office shall be like that of the heads of the other Executive Departments; and section one hundred and fifty-eight of the Revised Statutes is hereby amended to include such Department, and the provisions of title four of the Revised Statutes, including all amendments thereto, are hereby made applicable to said Department. The said Secretary shall cause a seal of office to be made for the said Department of such device as the President shall approve, and judicial notice shall be taken of the said seal.】

SEC. 2. That there shall be in said Department an Assistant Secretary of Commerce and Labor, to be appointed by the President, who shall receive a salary of five thousands dollars a year. He shall perform such duties as shall be prescribed by the Secretary or required by law. There shall also be one chief clerk and a disbursing clerk and such other clerical assistants as may from time to time be authorized by Congress; and the Auditor for the State and other Departments shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of Commerce and Labor, and of all bureaus and offices under his direction, all accounts relating to the Light-House Board, Steamboat-Inspection Service, Immigration, Navigation, Alaskan fur-seal fisheries, the National Bureau of Standards, Coast and Geodetic Survey, Census, Department of Labor, Fish Commission and to all other business within the jurisdiction of the Department of Commerce and Labor, and certify the balances arising thereon to the Division of Book-

keeping and Warrants and send forthwith a copy of each certificate to the Secretary of Commerce and Labor.

SEC. 3. That it shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, the labor interests, and the transportation facilities of the United States; and to this end it shall be vested with jurisdiction and control of the departments, bureaus, offices, and branches of the public service hereinafter specified, and with such other powers and duties as may be prescribed by law. All unexpended appropriations, which shall be available at the time when this Act takes effect, in relation to the various offices, bureaus, divisions, and other branches of the public service, which shall, by this Act, be transferred to or included in the Department of Commerce and Labor, or which may hereafter, in accordance with the provisions of this Act, be so transferred, shall become available, from the time of such transfer, for expenditure in and by the Department of Commerce and Labor and shall be treated the same as though said branches of the public service had been directly named in the laws making said appropriations as parts of the Department of Commerce and Labor, under the direction of the Secretary of said Department.

[SEC. 4. That the following-named offices, bureaus, divisions, and branches of the public service, now and heretofore under the jurisdiction of the Department of the Treasury, and all that pertains to the same, known as the Light-House Board, the Light-House Establishment, the Steamboat-Inspection Service, the Bureau of Navigation, the United States Shipping Commissioners, the National Bureau of Standards, the Coast and Geodetic Survey, the Commissioner-General of Immigration, the commissioners of immigration, the Bureau of Immigration, the immigration service at large, and the Bureau of Statistics, be, and the same hereby are, transferred from the Department of the Treasury to the Department of Commerce and Labor, and the same shall hereafter remain under the jurisdiction and supervision of the last-named Department; and that the Census Office, and all that pertains to the same, be, and the same hereby is, transferred from the Department of the Interior to the Department of Commerce and Labor, to remain henceforth under the jurisdiction of the latter; that the Department of Labor, the Fish Commission, and the Office of Commissioner of Fish and Fisheries, and all that pertains to the same be, and the same hereby are, placed under the jurisdiction and made a part of the Department of Commerce and Labor; that the Bureau of Foreign Commerce, now in the Department of State, be, and the same hereby is, transferred to the Department of Commerce and Labor and consolidate with and made a part of the Bureau of Statistics, hereinbefore transferred from the Department of the Treasury to the Department of Commerce and Labor, and the two shall constitute one bureau, to be called the Bureau of Statistics, with a chief of the bureau; and that the Secretary of Commerce and Labor shall have control of the work of gathering and distributing statistical information naturally relating to the subjects confided to his Department; and the Secretary of Commerce and Labor is hereby given the power and authority rearrange the statistical work of the

bureaus and offices confided to said Department, and to consolidate any of the statistical bureaus and offices transferred to said Department; and said Secretary shall also have authority to call upon other Departments of the Government for statistical data and results obtained by them; and said Secretary of Commerce and Labor may collate, arrange, and publish such statistical information so obtained in such manner as to him may seem wise.

That the official records and papers now on file in and pertaining exclusively to the business of any bureau, office, department, or branch of the public service in this Act transferred to the Department of Commerce and Labor, together with the furniture now in use in such bureau, office, department, or branch of the public service, shall be, and hereby are, transferred to the Department of Commerce and Labor.】

SEC. 5. That there shall be in the Department of Commerce and Labor a bureau to be called the Bureau of Manufactures, and a chief of said bureau, who shall be appointed by the President, and who shall receive a salary of four thousand dollars per annum. There shall also be in said bureau such clerical assistants as may from time to time be authorized by Congress. It shall be the province and duty of said bureau, under the direction of the Secretary, to foster, promote, and develop the various manufacturing industries of the United States, and markets for the same at home and abroad, domestic and foreign, by gathering, compiling, publishing, and supplying all available and useful information concerning such industries and such markets, and by such other methods and means as may be prescribed by the Secretary or provided by law. And all consular officers of the United States, including consuls-general, consuls, and commercial agents, are hereby required, and it is made a part of their duty, under the direction of the Secretary of State, to gather and compile, from time to time, useful and material information and statistics in respect to the subject enumerated in section three of this Act in the countries and places to which such consular officers are accredited, and to send, under the direction of the Secretary of Commerce and Labor of the information and statistics thus gathered and compiled, such reports to be transmitted through the State Department to the Secretary or the Department of Commerce and Labor.

SEC. 6. That there shall be in the Department of Commerce and Labor a bureau to be called the Bureau of Corporations, and a Commissioner of Corporations who shall be the head of said bureau, to be appointed by the President, who shall receive a salary of five thousand dollars per annum. There shall also be in said bureau a deputy commissioner who shall receive a salary of three thousand five hundred dollars per annum, and who shall in the absence of the Commissioner act as, and perform the duties of, the Commissioner of Corporations, and who shall also perform such other duties as may be assigned to him by the Secretary of Commerce and Labor or by the said Commissioner. There shall also be in the said bureau a chief clerk and such special agents, clerks, and other employees as may be authorized by law.

The said Commissioner shall have power and authority to make, under the direction and control of the Secretary of Commerce and Labor, diligent investigation into the organization, conduct, and

management of the business of any corporation, joint stock company or corporate combination engaged in commerce among the several States and with foreign nations excepting common carriers subject to "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and to gather such information and data as will enable the President of the United States to make recommendations to Congress for legislation for the regulation of such commerce, and to report such data to the President from time to time as he shall require; and the information so obtained or as much thereof as the President may direct shall be made public.

In order to accomplish the purposes declared in the foregoing part of this section, the said Commissioner shall have and exercise the same power and authority in respect to corporations, joint stock companies and combinations subject to the provisions hereof, as is conferred on the Interstate Commerce Commission in said "Act to regulate commerce" and the amendments thereto in respect to common carriers so far as the same may be applicable, including the right to subpoena and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said "Act to regulate commerce" and by "An Act in relation to testimony before the Interstate Commerce Commission," and so forth, approved February eleventh, eighteen hundred and ninety-three, supplemental to said "Act to regulate commerce," shall also apply to all persons who may be subpoenaed to testify as witnesses or to produce documentary evidence in pursuance of the authority conferred by this section.

It shall also be the province and duty of said bureau, under the direction of the Secretary of Commerce and Labor, to gather, compile, publish, and supply useful information concerning corporations doing business within the limits of the United States as shall engage in interstate commerce or in commerce between the United States and any foreign country, including corporations engaged in insurance, and to attend to such other duties as may be hereafter provided by law.

SEC. 7. That the jurisdiction, supervision and control now possessed and exercised by the Department of the Treasury over the fur-seal, salmon and other fisheries of Alaska and over the immigration of aliens into the United States, its waters, territories and any place subject to the jurisdiction thereof, are hereby transferred and vested in the Department of Commerce and Labor: *Provided*, That nothing contained in this Act shall be construed to alter the method of collecting and accounting for the head-tax prescribed by section one of the Act entitled "An Act to regulate immigration," approved August third, eighteen hundred and eighty-two. That the authority, power and jurisdiction now possessed and exercised by the Secretary of the Treasury by virtue of any law in relation to the exclusion from and the residence within the United States, its territories and the District of Columbia, of Chinese and persons of Chinese descent, are hereby transferred to and conferred upon the Secretary of Commerce and Labor, and the authority, power and jurisdiction in relation thereto now vested by law or treaty in the collectors of customs and the collectors of internal revenue, are

hereby conferred upon and vested in such officers under the control of the Commissioner-General of Immigration, as the Secretary of Commerce and Labor may designate therefor.

【SEC. 8. That the Secretary of Commerce and Labor shall annually, at the close of each fiscal year, make a report in writing to Congress, giving an account of all money's received and disbursed by him and his Department, and describing the work done by the Department in fostering, promoting, and developing the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, and the transportation facilities, of the United States, and making such recommendations as he shall deem necessary for the effective performance of the duties and purposes of the Department. He shall also from time to time make such special investigations and reports as he may be required to do by the President, or by either House of Congress, or which he himself may deem necessary and urgent.】

SEC. 9. That the Secretary of Commerce and Labor shall have charge, in the buildings or premises occupied by or appropriated to the Department of Commerce and Labor, of the library, furniture, fixtures, records, and other property pertaining to it or hereafter acquired for use in its business; and he shall be allowed to expend for periodicals and the purposes of the library, and for the rental of appropriate quarters for the accommodation of the Department of Commerce and Labor within the District of Columbia, and for all other incidental expenses, such sums as Congress may provide from time to time: *Provided, however,* That where any office, bureau, or branch of the public service transferred to the Department of Commerce and Labor by this Act is occupying rented buildings or premises, it may still continue to do so until other suitable quarters are provided for its use: *And provided further,* That all officers, clerks, and employees now employed in or by any of the bureaus, offices, departments, or branches of the public service in this Act transferred to the Department of Commerce and Labor are each and all hereby transferred to said Department at their present grades and salaries, except where otherwise provided in this Act: *And provided further,* That all laws prescribing the work and defining the duties of the several bureaus, offices, departments, or branches of the public service by this Act transferred to and made a part of the Department of Commerce and Labor shall, so far as the same are not in conflict with the provisions of this Act, remain in full force and effect until otherwise provided by law.

SEC. 10. That all duties performed and all power and authority now possessed or exercised by and head of any executive department in and over any bureau, office, board, branch, or division of the public service by this Act transferred to the Department of Commerce and Labor, or any business arising therefrom or pertaining thereto, or in relation to the duties performed by and authority conferred by law upon such bureau, officer, office, board, branch or division of the public service, whether of an appellate or revisory character or otherwise, shall hereafter be vested in and exercised by the head of the said Department of Commerce and Labor.

All duties, power, authority and jurisdiction, whether supervisory, appellate or otherwise, now imposed or conferred upon the Secretary of the Treasury by Acts of Congress relating to merchant

vessels or yachts, their measurement, numbers, names, registers, enrollments, licenses, commissions, records, mortgages, bills of sale, transfers, entry, clearance, movements and transportation of their cargoes and passengers, owners, officers, seamen, passengers fees, inspection, equipment for the better security of life, and by Acts of Congress relating to tonnage tax, boilers on steam vessels, the carrying of inflammable, explosive or dangerous cargo on vessels, the use of petroleum or other similar substances to produce motive power and relating to the remission or refund of fines, penalties, forfeitures, exactions or charges incurred for violating any provision of law relating to vessels or seamen or to informer's shares of such fines, and by Acts of Congress relating to the Commissioner and Bureau of Navigation, Shipping Commissioners, their officers and employees, Steamboat-Inspection Service and any of the officials thereof, shall be and hereby are transferred to and imposed and conferred upon the Secretary of Commerce and Labor from and after the time of the transfer of the Bureau of Navigation, the Shipping Commissioners and the Steamboat-Inspection Service to the Department of Commerce and Labor, and shall not thereafter be imposed upon or exercised by the Secretary of the Treasury. And all Acts or parts of Acts inconsistent with this Act are, so far as inconsistent, hereby repealed.

SEC. 11. A person, to be designated by the Secretary of State, shall be appointed to formulate, under his direction, for the instruction of consular officers, the requests of the Secretary of Commerce and Labor; and to prepare from the dispatches of consular officers, for transmission to the Secretary of Commerce and Labor, such information as pertains to the work of the Department of Commerce and Labor; and such person shall have the rank and salary of a chief of bureau, and be furnished with such clerical assistants as may from time to time be authorized by law.

[SEC. 12. That the President be, and he is hereby, authorized, by order in writing, to transfer at any time the whole or any part of any office, bureau, division or other branch of the public service engaged in statistical or scientific work, from the Department of State, the Department of the Treasury, the Department of War, the Department of Justice, the Post-Office Department, the Department of the Navy or the Department of the Interior, to the Department of Commerce and Labor; and in every such case the duties and authority performed by and conferred by law upon such office, bureau, division or other branch of the public service, or the part thereof so transferred, shall be thereby transferred with such office, bureau, division or other branch of the public service, or the part thereof which is so transferred. And all power and authority conferred by law, both supervisory and appellate, upon the department from which such transfer is made, or the Secretary thereof, in relating to the said office, bureau, division or other branch of the public service, or the part thereof so transferred, shall immediately, when such transfer is so ordered by the President, be fully conferred upon and vested in the Department of Commerce and Labor, or the Secretary thereof, as the case may be, as to the whole or part of such office, bureau, division or other branch of the public service so transferred.]

SEC. 13. That this Act shall take effect and be in force from and after its passage: *Provided, however,* That the provisions of this Act other than those of section twelve in relation to the transfer of any existing office, bureau, division, officer or other branch of the public service or authority now conferred thereon, to the Department of Commerce and Labor shall take effect and be in force on the first day of July, nineteen hundred and three, and not before.

Approved, February 14, 1903.

* * * * *

15 U.S.C. 1501

CHAP. 141.—AN ACT To create a Department of Labor

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created an executive department in the Government to be called the Department of Labor, with a Secretary of Labor, who shall be the head thereof, to be appointed by the President, by and with the advice and consent of the Senate; and who shall receive a salary of twelve thousand dollars per annum, and whose tenure of office shall be like that of the heads of the other executive departments; and section one hundred and fifty-eight of the Revised Statutes is hereby amended to include such department, and the provisions of title four of the Revised Statutes, including all amendments thereto, are hereby made applicable to said department; [and the Department of Commerce and Labor shall hereafter be called the Department of Commerce, and the Secretary thereof shall be called the Secretary of Commerce, and the Act creating the said Department of Commerce and Labor is hereby amended accordingly]. The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment. The said Secretary shall cause a seal of office to be made for the said department of such device as the President shall approve and judicial notice shall be taken of the said seal.

* * * * *

15 U.S.C. 1502 and 1503

AN ACT To establish the position of Under Secretary in the Department of Commerce

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established in the Department of Commerce the position of Under Secretary of Commerce with compensation at the rate of \$10,000 per annum and with appointment thereto by the President, by and with the advice and consent of the Senate.]

[SEC. 2. Such Under Secretary shall perform the duties of the Secretary of Commerce in the case of absence or sickness of the

Secretary, or in the case of the death or resignation of the Secretary until a successor is appointed.】

* * * * *

96 Stat. 115; U.S.C. 1503a

AN ACT To authorize an Under Secretary of Commerce for Economic Affairs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That [(a) there shall be in the Department of Commerce an Under Secretary of Commerce for Economic Affairs who shall be appointed by the President by and with the advice and consent of the Senate. The Under Secretary shall perform such duties as the Secretary of Commerce shall prescribe.]

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting before “and Under” in the item relating to the Under Secretaries of Commerce: “, Under Secretary of Commerce for Economic Affairs,”.

(2) Section 5315 of title 5, United States Code, is amended in the item relating to the Assistant Secretaries of Commerce by striking out “(7)” and inserting in lieu thereof “(8)”.

(c)(1) Section 2 of the Act entitled “An Act to establish the Departments of Commerce and Labor”, approved February 14, 1903, as amended (15 U.S.C. 1504) is amended by striking out the first two sentences.

(2) Section 8 of the Air Commerce Act of 1926 (44 Stat. 568; 52 Stat. 1029) is hereby repealed.

(3) Section 601(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3201) is amended by striking out “and shall be compensated at the rate provided for level IV of the Federal Executive Salary schedule”.

(4) Section 9(a) of the Maritime Appropriation Authorization Act for Fiscal Year 1978 (15 U.S.C. 1507b) is amended by striking out “shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and”.

(5) Section 4 of the Reorganization Plan Numbered 1 of 1977 (91 Stat. 1633; 5 U.S.C. Appendix) is amended by striking out “, and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for level IV of the Executive Schedule”.

(6) Section 2(d) of Reorganization Plan Numbered 3 of 1979 (93 Stat. 1382; 5 U.S.C. Appendix) is amended by striking out “shall receive compensation at the rate payable for level IV of the Executive Schedule, and”.

* * * * *

15 U.S.C. 1505

AN ACT To provide for the appointment of one additional Assistant Secretary of Commerce, and for other purposes

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Commerce one additional Assistant Secretary of Commerce, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary of

Commerce may assign to his Assistant Secretaries such duties, including the direction of the Bureau of Foreign and Domestic Commerce, as he shall prescribe, or may be required by law. The Assistant Secretaries of Commerce shall be without numerical distinction of rank and shall have salaries of \$10,000 per annum.

[Approved July 15, 1947.]

* * * * *

15 U.S.C. 1506

AN ACT Making appropriations for the Departments of State, Justice, and Commerce, and the United States Information Agency, for the fiscal year ending June 30, 1955, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, and the United States Information Agency for the fiscal year ending June 30, 1955, namely:

* * * * *

TITLE III—DEPARTMENT OF COMMERCE

* * * * *

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 302. During the current fiscal year applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (5 U.S.C. 596a), to the extent and in the manner prescribed by said Act.

SEC. 303. Appropriations in this title available for salaries and expenses shall be available for expenses of attendance at meetings of organizations concerned with the activities for which the appropriations are made; hire of passenger motor vehicles; and services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but, unless otherwise specified, at rates for individuals not to exceed \$50 per diem.

SEC. 304. [There shall be hereafter in the Department of Commerce, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of Commerce, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall be subject in all respects to the provisions of the Act of July 15, 1947 (61 Stat. 326), as amended (5 U.S.C. 592a), relating to Assistant Secretaries of Commerce.] Section 3 of Reorganization Plan Numbered 5 of 1950, as amended (64 Stat. 1263; 66 Stat. 121), is hereby repealed.

SEC. 305. No part of the appropriations made available in this title shall be available for management studies except the \$100,000 authorized for transfer to the Office of the Secretary.

This title may be cited as the “Department of Commerce Appropriation Act, 1955.”

* * * * *

15 U.S.C. 1507; P.L. 87-405

AN ACT To authorize an additional Assistant Secretary of Commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Commerce, in addition to the Assistant Secretaries now provided by law, one additional Assistant Secretary of Commerce who shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.

[Approved February 16, 1962.]

* * * * *

15 U.S.C. 1507(b); P.L. 95-173

AN ACT To authorize appropriations for fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Maritime Appropriation Authorization Act for Fiscal Year 1978”.

* * * * *

SEC. 9. [(a) There shall be in the Department of Commerce, in addition to the Assistant Secretaries provided by law as of the date of the enactment of this Act, one additional Assistant Secretary of Commerce who shall be appointed by the President, by and with the advice and consent of the Senate. Such Assistant Secretary shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.]

* * * * *

15 U.S.C. 1507c; 100 Stat. 3739

AN ACT To amend certain provisions of the law regarding the fisheries of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE IV—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 407. NOAA OFFICERS.

(a) UNDER SECRETARY.—There shall be in the Department of Commerce an Under Secretary of Commerce for Oceans and Atmosphere who shall serve as the Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

[(b) ASSISTANT SECRETARY.—There shall be in the Department of Commerce, in addition to the Assistant Secretaries of Commerce provided by law before the date of enactment of this Act, one additional Assistant Secretary of Commerce who shall have the title Assistant Secretary of Commerce for Oceans and Atmosphere and shall serve as the Deputy Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties and functions as the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe. The Assistant Secretary for Oceans and Atmosphere shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).]

* * * * *

33 Stat. 135, Chapter 716; 15 U.S.C. 1508

CHAP. 716.—AN ACT Making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and five, and for other purposes

* * * * *

DEPARTMENT OF JUSTICE

【OFFICE OF THE SOLICITOR OF THE DEPARTMENT OF COMMERCE AND LABOR: For Solicitor of the Department of Commerce and Labor, to be appointed by the President, by and with the advice and consent of the Senate, four thousand five hundred dollars; clerk of class three: clerk of class one; and messenger; in all, eight thousand one hundred and fourth dollars.】

* * * * *

66 Stat. 758, Chapter 932; 15 U.S.C. 1508

AN ACT To authorize the participation by certain Federal employees, without loss of pay or deduction from annual leave, in funerals for deceased members of the Armed Forces returned to the United States from abroad for burial and relating to the General Counsel of the Department of Commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to grant time to employees in the executive branch of the Government to participate, without loss of pay or deduction from annual leave, in funerals for deceased members of the Armed

Forces returned to the United States for burial", approved August 16, 1949, is amended to read as follows:

"That employees in the executive branch of the Government who are veterans of any war, campaign, or expedition (for which a campaign badge has been authorized), or members of honors or ceremonial groups of organizations of such veterans may be excused from duty without loss of pay or deduction from their annual leave, for such time as may be necessary, but not in excess of four hours in any one day, to enable them to participate as active pallbearers or as members of firing squads or guards of honor in funeral ceremonies for members of the Armed Forces of the United States whose remains are returned from abroad for final interment in the United States."

【SEC. 2. The Solicitor of the Department of Commerce shall hereafter be designated as the General Counsel of the Department of Commerce, and all laws and orders relating or referring to the Solicitor of the Department of Commerce shall be deemed to relate or refer to the General Counsel of the Department of Commerce.】

Approved July 17, 1952.

* * * * *

15 U.S.C. 1509; 59 Stat. 188

AN ACT Making appropriations for the Departments of State, Justice, Commerce, the Judiciary, and the Federal Loan Agency for the fiscal year ending June 30, 1946, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, Commerce, the Judiciary, and the Federal Loan Agency for the fiscal year ending June 30, 1946, namely:

* * * * *

TITLE III—DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

Salaries and expenses: For all necessary expenses of the Office of the Secretary of Commerce (hereafter in this title referred to as the Secretary) including personal services in the District of Columbia; newspapers (not exceeding \$500); contract stenographic reporting services; lawbooks, books of reference, and periodicals; purchase of one passenger automobile at not exceeding \$1,800, and maintenance, operation, and repair of motor vehicles; not exceeding \$2,000 for expenses of attendance at meetings of organizations concerned with the work of the Office of the Secretary; \$570,000: *【Provided,* That hereafter the Secretary may designate an officer of the Department to sign minor routine official papers and documents during the temporary absence of the Secretary, the Under Secretary, and the Assistant Secretary of the Department.】

Printing and binding: For all printing and binding for the Department of Commerce, except the Patent Office, the Civil Aeronautics Board, and work done at the field printing plants of the Weather Bureau authorized by the Joint Committee on Printing, in accordance with the Act approved March 1, 1919 (44 U.S.C. 111, 220), \$750,000.

Salaries and expenses, National Inventors Council Service Staff: For all necessary expenses of the servicing staff of the National Inventors Council, including personal services in the District of Columbia, printing and binding and traveling expenses, \$75,000.

Penalty mail, Department of Commerce: For deposit in the general fund of the Treasury for cost of penalty mail of the Department of Commerce, except the Civil Aeronautics Board, as required by section 2 of the Act of June 28, 1944 (Public Law 364), \$485,000.

* * * * *

37 Stat. 407, Chapter 350; 15 U.S.C. 1511

CHAP. 350.—An Act Making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes.

* * * * *

DEPARTMENT OF COMMERCE AND LABOR

【The Bureau of Manufactures and the Bureau of Statistics, both of the Department of Commerce and Labor, are hereby consolidated into one bureau to be known as the Bureau of Foreign and Domestic Commerce, to take effect July first, nineteen hundred and twelve, and the duties required by law to be performed by the Bureau of Manufactures and the Bureau of Statistics are transferred to and shall after that date be performed by the Bureau of Foreign and Domestic Commerce.】

* * * * *

42 Stat. 1109, Chapter 23; 15 U.S.C. 1511

CHAP. 23.—AN ACT To consolidate the work of collecting, compiling, and publishing statistics of the foreign commerce of the United States in the Department of Commerce.

【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the control and with it the expense of operation of the office known as the Bureau of Customs Statistics under the jurisdiction of the Department of the Treasury, now located in the customhouse, city of New York, State of New York, including all officers, clerks, and other employees of that bureau, official records, papers, mechanical and office equipment, furniture, and supplies now in use, be, and the same hereby is, transferred from the Department of the Treasury to the Department of Commerce. The Secretary of Commerce is hereby authorized, if by him deemed advisable, to consolidate the said Bureau of Customs Statistics with the Division of Statistics of the Bureau of Foreign and Domestic Commerce into one office, located in either Washington or New York, or partly in either place, in the discretion of the Secretary of Commerce; that the statistical bureau

hereby authorized to be located in New York under the jurisdiction and control of the Department of Commerce continue to occupy the premises in the New York customhouse which are now occupied by the Bureau of Customs Statistics, and that additional space as needed be assigned in the same building for its use by the Secretary of the Treasury upon request of the Secretary of Commerce. All of the unexpended appropriations or allotments from appropriations available for the maintenance and expense of operation of the said Bureau of Customs Statistics are, from the time when this Act takes effect, deducted from the appropriation of the Department of the Treasury for collecting revenue from customs and transferred to the appropriation for the Department of Commerce, to be available for the current fiscal year from the time of such transfer for expenditure in the District of Columbia or elsewhere, under the direction of the Secretary of Commerce, for personal services, rental, or purchase of mechanical, tabulating, duplicating, and other office machinery, devices, furniture, and supplies, including their exchange or repair; subsistence, traveling and transportation expenses of employees for official purposes; telegraph, telephone, and all other contingent expenses not specifically included in the foregoing.]

SEC. 2. That the Department of Commerce will furnish monthly to the collectors at the several ports a tabulation in detail showing the quantities and values of the merchandise imported and exported from their respective districts, and will furnish the Treasury Department upon request such special reports as may be necessary from time to time.

SEC. 3. That this Act shall take effect and be in force on the 1st day of January, 1923.

* * * * *

49 Stat. 1380, Chapter 463; 15 U.S.C. 1511

AN ACT To provide for a change in the designation of the Bureau of Navigation and Steamboat Inspection, to create a marine casualty investigation board and increase efficiency in administration of the steamboat inspection laws, and for other purposes

【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bureau of Navigation and Steamboat Inspection in the Department of Commerce shall hereafter be known as the "Bureau of Marine Inspection and Navigation."】

* * * * *

15 U.S.C. 1521

Department of Commerce Appropriation Act, 1945

OFFICE OF THE SECRETARY

Salaries: For personal services in the District of Columbia, including the Chief Clerk and Superintendent, who shall be chief executive officer of the Department and who may be designated by the Secretary of Commerce (hereafter in this title referred to as the Secretary) to sign minor routine official papers and documents dur-

ing the temporary absence of the Secretary, the Under Secretary, and the Assistant Secretary of the Department, \$620,000.

Contingent expenses: For miscellaneous expenses of the offices and bureaus of the Department, except the Patent Office, the Office of the Administrator of Civil Aeronautics, the Civil Aeronautics Board, and the Loan Agencies, including those for which appropriations for miscellaneous expenses are specifically made, including lawbooks, books of reference, periodicals, blank books, pamphlets, maps, newspapers (not exceeding \$1,500); contract stenographic reporting services; purchase of atlases or maps, stationery, furniture and repairs to same; carpets, matting, oilcloth, file cases, towels, ice, brooms, soap, sponges; fuel, lighting and heating; purchase of motortrucks and bicycles; maintenance, repair, and operation of motor-propelled passenger-carrying vehicles (not exceeding three) and motortrucks and bicycles; freight and express charges; postage to foreign countries; telegraph and telephone service; teletype service and tolls (not to exceed \$1,000); travel and not exceed \$2,000 for expenses of attendance at meetings of organizations concerned with the work of the Office of the Secretary; first-aid outfits for use in the buildings occupied by employees of this Department; \$69,000.

Printing and binding: For all printing and binding for the Department of Commerce, except the Patent Office, the Civil Aeronautics Board, the Loan Agencies, the war training service and the development of landing-areas program of the Office of the Administrator of Civil Aeronautics, and work done at the field printing plants of the Weather Bureau authorized by the Joint Committee on Printing, in accordance with the Act approved March 1, 1919 (44 U.S.C. 111, 220), \$440,000.

Salaries and expenses, National Investors Council Service Staff: For all necessary expenses of the servicing staff of the National Investors Council, including personal services in the District of Columbia, printing and biding and traveling expenses, \$125,000.

[Working capital fund, Department of Commerce: For the establishment of a working capital fund, \$100,000, without fiscal year limitation, for the payment of salaries and other expenses necessary to the maintenance and operation of (1) central duplicating, photographic, drafting, and photostating, services and (2) such other services as the Secretary, with the approval of the Director of the Bureau of the Budget, determines may be performed more advantageously as central services; said fund to be reimbursed from applicable funds of bureaus, offices, and agencies for which services are performed on the basis of rates which shall include estimated or actual charges for personal services, materials, equipment (including maintenance, repairs, and depreciation) and other expenses: *Provided*, That such central services shall, to the fullest extent practicable, be used to make unnecessary the maintenance of separate like services in the bureaus, offices, and agencies of the Department: *Provided further*, That a separate schedule of expenditures and reimbursements, and a statement of the current assets and liabilities of the working capital fund as of the close of the last completed fiscal year, shall be included in the annual Budget.]

* * * * *

15 U.S.C. 1522, 1523, and 1524; Public Law 88-611

AN ACT To authorize the Secretary of Commerce to accept gifts and bequests for the purposes of the Department of Commerce, and for other purposes

【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce is hereby authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of Commerce. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary of Commerce. Property accepted pursuant to this provision, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.】

【SEC. 2. For the purpose of Federal income, estate, and gift taxes, property accepted under section 1 shall be considered as a gift or bequest to or for the use of the United States.**】**

【SEC. 3. Upon the request of the Secretary of Commerce, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund authorized herein. Income accruing from such securities, and from any other property accepted pursuant to section 1, shall be deposited to the credit of the fund authorized herein, and shall be disbursed upon order of the Secretary of Commerce.**】**

SEC. 4. (a) The following provisions of law are repealed:

(1) Section 11 of the Act entitled "An Act to establish the National Bureau of Standards" approved March 3, 1901, as amended (15 U.S.C. 278a);

(2) Section 7 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883g);

(3) Subsection (g) of section 216 of the Merchant Marine Act, 1936 (46 U.S.C. 1126(g)).

(b) All gifts and bequests received under the provisions of law repealed by subsection (a) of this section and all funds held on the date of enactment of this Act in the United States Merchant Marine Academy general gift fund, established by subsection (g) of section 216 of the Merchant Marine Act, 1936, shall be transferred to the fund authorized by this Act and shall be administered in accordance with the provisions of this Act.

Approved October 2, 1964.

* * * * *

Public Law 96-480; 15 U.S.C. 3701 et seq.

Stevenson-Wydler Technology Innovation Act of 1980

* * * * *

SEC. 3. PURPOSE.

It is the purpose of this Act to improve the economic environmental, and social well-being of the United States by—

(1) establishing organizations in the executive branch to study and stimulate technology;

[(2) promoting technology development through the establishment of centers for industrial technology;]

[(3)] (2) stimulating improved utilization of federally funded technology through the recognition of individuals and companies which have made outstanding contributions in technology; and

[(4)] (3) providing encouragement for the development of technology through the recognition of individuals and companies which have made outstanding contributions in technology; and

[(5)] (4) encouraging the exchange of scientific and technical personnel among academia, industry, and Federal laboratories.

SEC. 4. DEFINITIONS.

As used in this Act, unless the context otherwise requires, the term—

[(1) “Office” means the Office of Technology Policy established under section 3704 of this title]

[(2) “Secretary” means the Secretary of Commerce]

[(3) “Under Secretary” means the Under Secretary of Commerce for Technology appointed under section 3707 of this title.]

[(4) “Centers” means the Cooperative Research Centers established under section 3705 or section 3707 of this title.]

[(5)] (1) “Nonprofit institution” means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

[(6)] (2) “Federal Laboratory” means any laboratory, any federally funded research and development center, or any center established under section 3705 or section 3707 of this title that is owned, leased, or otherwise used by a Federal agency and funded by the Federal Government, whether operated by the Government or by a contractor.

[(7)] (3) “Supporting agency” means either the Department of Commerce or the National Science Foundation, as appropriate.

[(8)] (4) “Federal agency” means any executive agency, as defined in section 105 of Title 5 and the military departments as defined in section 102 of such title, as well as any agency of the legislative branch of the federal government.

[(9)] (5) “Invention” means any invention or discovery which is or may be patentable or otherwise protected under Title 35 or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

[(10)] (6) “Made” when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

[(11)] (7) “Small business firm” means a small business concern as defined in section 632 of this title and implementing regulations of the Administrator of the Small Business Administration.

[(12)] (8) "Training technology" means computer software and related materials which are developed by a Federal agency to train employees of such agency, including but not limited to software for computer-based instructional systems and for interactive video disc systems.

[(13) "Clearinghouse" means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 3704a of this title.]

[Section 5. Commerce and Technological Innovation]

[Section 6. Centers for Industrial Technology]

[Section 7. Grants and Cooperative Agreements]

[Section 8. National Science Foundation Centers for Industrial Technology]

[Section 9. Administrative Arrangements]

[Section 10. National Industrial Technology Board]

SEC. 11. UTILIZATION OF FEDERAL TECHNOLOGY.

* * * * *

(c) FUNCTIONS OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—It shall be the function of each Office of Research and Technology Applications—

* * * * *

(3) to cooperate with and assist the National Technical Information Service [, the Federal Laboratory Consortium for Technology Transfer,] and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry;

[(d) Dissemination of technical information]

[(e) Establishment of Federal Laboratory Consortium for Technology Transfer]

(f) Agency reporting

[(g) Functions of Secretary]

* * * * *

SEC. 17. MALCOM BALDRIGE NATIONAL QUALITY AWARD.

* * * * *

(c) CATEGORIES IN WHICH AWARD MAY BE GIVEN.—(1) [Subject to paragraph (2), separate] *Separate awards* shall be made to qualifying organizations in each of the following categories—

(A) Small Businesses.

(B) Companies or their subsidiaries.

(C) Companies which primarily provide services.

[(2) The [Secretary] *Director of the Office of Patents, Trademarks and Standards* may at any time expand, subdivide, or otherwise modify the list of categories within which awards may be made as initially in effect under paragraph (1), and may establish separate awards for other organizations including units of government, upon a determination that the objectives of this section would be better served thereby; except that any such expansion, subdivision, modification, or establishment shall not be effective unless and until the Secretary has submitted a detailed description

thereof to the Congress and a period of 30 days has elapsed since the submission.]

[(3)] (2) Not more than two awards may be made within any subcategory in any year (and no award shall be made within any category or subcategory if there are not qualifying enterprises in that category or subcategory).

* * * * *

(f) FUNDING.—The [Secretary] *Director of the Office of Patents, Trademarks and Standards* is authorized to seek and accept gifts from public and private sources to carry out the program under this section. If additional sums are needed to cover the full cost of the program, the [Secretary] *Director of the Office of Patents, Trademarks and Standards* shall impose fees upon the organizations applying for the award in amounts sufficient to provide such additional sums. The Director is authorized to use appropriated funds to carry out responsibilities under this section.

NOTE.—For all of Section 17, [Secretary] *Director of the Office of Patents, Trademarks and Standards* as it appears.

* * * * *

Subchapter III—Export Promotion

* * * * *

[15 U.S.C. 4721(h)—Report by the Secretary.—Not later than 1 year after August 23, 1988, the Secretary shall submit a report to the Congress on the feasibility and desirability, the progress to date, the present status, and the 5-year outlook, of the comprehensive integration of the functions and personnel of the foreign and domestic export promotion operations within the International Trade Administration of the Department of the Commerce]

15 U.S.C. 4721(h)—ASSISTANCE TO EXPORT-IMPORT BANK.—*The Commercial Service shall provide such services as the Director General of the Commercial Service if the United States Trade Administration determines necessary to assist the Export-Import Bank of the United States to carry out the lending, loan guarantee, insurance, and other activities of the Bank*

* * * * *

TITLE 19—CUSTOMS DUTIES

* * * * *

PART V—ADMINISTRATIVE PROVISIONS

* * * * *

19 U.S.C. 1872. INTERAGENCY TRADE ORGANIZATION.—

(a) ESTABLISHMENT ; FUNCTIONS; MEMBERSHIP AND COMPOSITION; PARTICIPATION OF REPRESENTATIVES OF OTHER AGENCIES; MEETINGS * * *

[(3)] The interagency organization shall be composed of the following:

[(A)] the Trade Representative, who shall be chairperson,

- [(B) the Secretary of Commerce,
- [(C) the Secretary of State,
- [(D) the Secretary of the Treasury,
- [(E) the Secretary of Agriculture,
- [(F) the Secretary of Labor.]

(3)(A) *The interagency organization established under subsection (a) shall be composed of—*

- (i) *The United States Trade representative, who shall be Chairman,*
- (ii) *the Secretary of Agriculture,*
- (iii) *the Secretary of the Treasury,*
- (iv) *the Secretary of Labor,*
- (v) *the Secretary of State, and*
- (vi) *the representatives of such other departments and agencies as the United States Trade Representative shall designate.*

(B) the United States Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the Chairman shall direct.

* * * * *

19 U.S.C. 2171; PUBLIC LAW 93-618; STAT. 1978

* * * * *

CHAPTER 12—TRADE ACT OF 1974

* * * * *

[Chapter 4—Office of the Special Representative for Trade Negotiation]

[SEC. 141. STRUCTURE, FUNCTIONS, POWERS, AND PERSONNEL.]

Chapter 4—Representation in Trade Negotiations

SEC. 141. FUNCTIONS OF THE UNITED STATES REPRESENTATIVE.

The United States Trade Representative of the United States Trade Administration as established under section 201 of the Commerce Department Termination and Government Reorganization Act of 1995 shall perform such representation, trade negotiation, and other functions as provided under such Act.

* * * * *

TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

* * * * *

22 U.S.C. 286. Acceptance of Membership by United States in International Monetary Fund.—

* * * * *

22 U.S.C. 286a. Appointments.—

* * * * *

(e) The United States Executive Director of the Fund shall consult with the United States Trade Representative with respect to matters under consideration by the Fund which relate to trade.

* * * * *

[22 U.S.C. 2121–2129. The International Travel Act of 1961].—

* * * * *

22 U.S.C. 3922. Utilization of Foreign Service personnel system by other agencies.—

(a) * * *

[(3) The Secretary of Commerce may utilize the Foreign service personnel system in accordance with this chapter—

[(A) with respect to the personnel performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, and

[(B) with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.]

(3) The United States Trade Representative of the United States Trade Administration may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to the personnel performing functions—

(i) which were transferred to the Department of Commerce from the Department of State by Reorganization Plan No. 3 of 1979; and

(ii) which were subsequently transferred to the United States Trade Representative by section 232 of the Commerce Department Termination and Government Reorganization Act of 1995; and

(B) with respect to other personnel of the United States Trade Administration to the extent the President determines to be necessary in order to enable the United States Trade Administration to carry out functions which require service abroad.

* * * * *

TITLE 31—MONEY AND FINANCE

Chapter 9—Agency Chief Financial Officers

* * * * *

31 U.S.C. 901. ESTABLISHMENT OF AGENCY CHIEF FINANCIAL OFFICERS.—(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each Chief Financial Officer shall—

- (1) for those agencies described in section (b)(1)—
 - (A) be appointed by the President, with the advice and consent of the Senate; or
 - (B) be designated by the President in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;
- (2) for those agencies described in subsection (b)(2)—
 - (A) be appointed by the head of the agency;
 - (B) be in the competitive service or the senior executive service; and
 - (C) be career appointees; and
- (3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in financial management practices in large governmental or business entities.

(b)(1) The agencies referred to in subsection (a)(1) are the following:

* * * * *

(Q) The United States Trade Administration

(b)(2) The agencies referred to in section (a)(2) are the following:

* * * * *

(H) The National Oceanic and Atmospheric Administration

(I) The Office of Patents, Trademarks and Standards

* * * * *

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

* * * * *

Chapter 17—National Ocean Survey

* * * * *

33 U.S.C. 853g. RETIREMENT OR SEPARATION OF OFFICERS.—(b) COMPUTATIONS.—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) of this section plus the number of officers retired for age may not exceed the whole number nearest **four percent** *ten percent* of the total number of officers authorized to be on the active list except as otherwise provided by law.

* * * * *

TITLE 35—PATENTS

35 U.S.C. 1. ESTABLISHMENT.—The Patent and Trademark Office shall continue as an office in the **Department of Commerce** *Office of Patents, Trademarks and Standards*, where records, books, drawings, specifications, and other papers and things pertaining to

patents and to trademark registrations shall be kept and preserved, except as otherwise provided by law.

* * * * *

35 U.S.C. 3. OFFICERS AND EMPLOYEES.—

* * * * *

[(d) The Commissioner of Patents and Trademarks shall be an Assistant Secretary of Commerce and Shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce]

NOTE.—For all of Title 35, [Secretary of Commerce] *Commissioner, Office of Patents, Trademarks and Standards*; [Department of Commerce] *Commissioner, Office of Patents, Trademarks and Standards* as each appears.

* * * * *

TITLE 42—THE PUBLIC HEALTH AND WELFARE

* * * * *

[Chapter 38—Public Works and Economic Development]

[42 U.S.C. Sections]

[3121. Congressional Finding and Statement of Purpose]

[3122. Rural Development]

[3123. Discrimination on basis of sex prohibited in Federally assisted programs]

[Subchapter I—Grants for Public Works and Development Facilities]

[Subchapter II—Loans, Loan Guarantees, and Economic Development Revolving Fund]

[Subchapter III—Technical Assistance, Research, and Information]

[Subchapter IV—Area and District Eligibility]

[Subchapter V—Regional Action Planning Commissions]

[Subchapter VI—Administration]

[Subchapter VII—Miscellaneous]

[Subchapter VIII—Economic Recovery for Disaster Areas]

[Subchapter IX—Special Economic Development and Adjustment Assistance]

[Subchapter X—Job Opportunities Program]

* * * * *

TITLE 50—WAR AND NATIONAL DEFENSE

Subchapter I—Coordination for National Security

* * * * *

50 U.S.C. 402. NATIONAL SECURITY COUNCIL.—(a) ESTABLISHMENT; PRESIDING OFFICER; FUNCTIONS; COMPOSITION * * *

The Council shall be composed of—

- (1) the President;
- (2) the Vice President;
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) *the United States Trade Representative*;
- [(5)] (6) the Director for Mutual Security;
- [(6)] (7) the Chairman of the National Security Resources Board; and
- [(7)] (8) the Secretaries and Under Secretaries of other executive departments and of the military departments, the chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

* * * * *

(August 26, 1994 P.L. 103-317, 108 Stat. 1724)

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995

* * * * *

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS RESEARCH AND FACILITIES

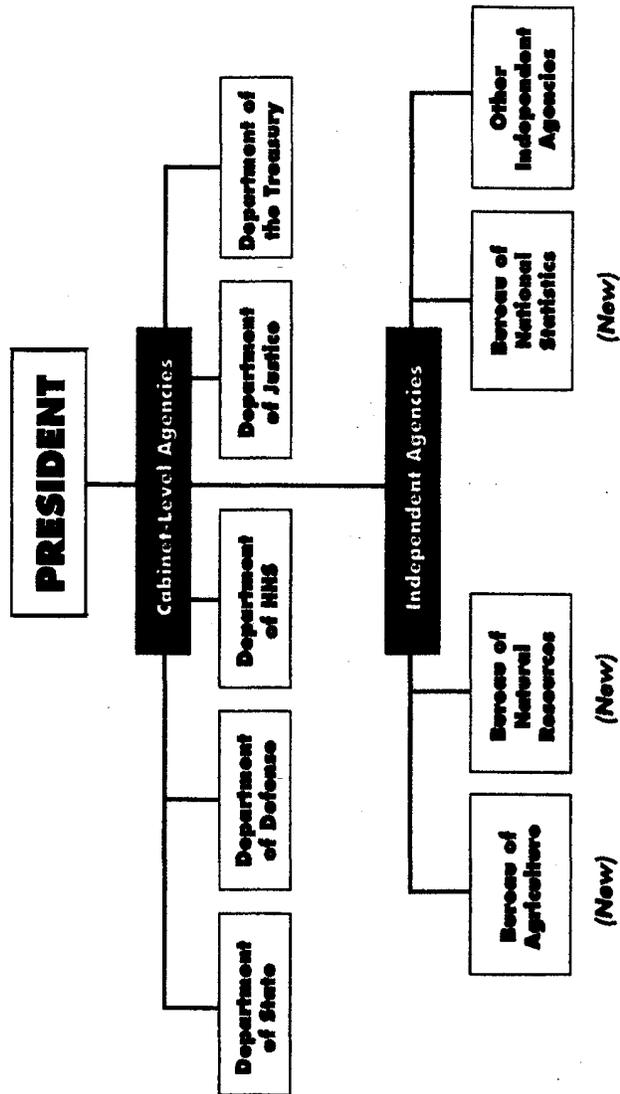
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed [439 commissioned officers on the active list] *the number of commissioned officers on the active list provided by section 303 of the Commerce Department Termination and Government Reorganization Act of 1995*; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883j; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 833i; \$1,835,000,000, to remain available until expended.

* * * * *

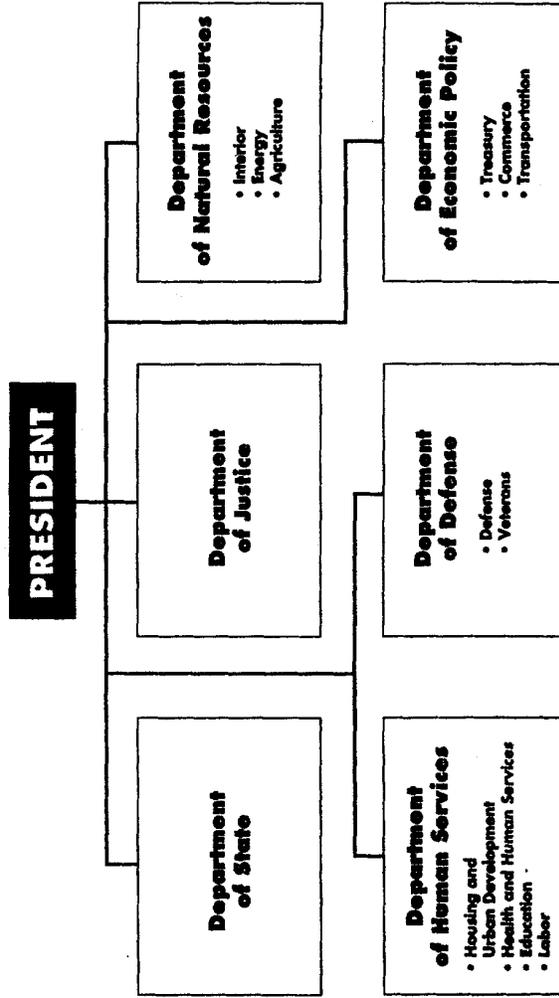
XI. APPENDIX A: PREVIOUS REORGANIZATION PROPOSALS

1995 Heritage Foundation Proposal Executive Branch Reorganization



1991 Panetta Proposal

Executive Branch Reorganization



1971 Ash Council Proposal Executive Branch Reorganization

